



United States
Department of
Agriculture

Forest
Service



Decision Notice and Finding of No Significant Impact

**BLM Federal Coal Lease (LBA OHES
057390)**

September 2013

**Athens Ranger District
Wayne National Forest
Perry and Morgan Counties, Ohio**

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Table of Contents

DECISION.....	4
REASONS FOR THE DECISION	5
OTHER ALTERNATIVES ANALYZED	8
PUBLIC INVOLVEMENT	8
FINDING OF NO SIGNIFICANT IMPACT.....	9
INCORPORATION BY REFERENCE.....	11
LEGAL REQUIREMENTS AND POLICY.....	11
IMPLEMENTATION	14
APPEAL RIGHTS	14
CONTACTS AND ADDITIONAL INFORMATION.....	15
RESPONSIBLE OFFICIAL.....	15
APPENDIX A: Response to Comments	
APPENDIX B: Maps	
APPENDIX C: Works Cited	

Note on edits made to the BLM Federal Coal Lease (LBA OHES 057390) Environmental Assessment (EA). In response to comments made during the 30-day comment period, some clarifications were made to the content of the EA. As a logical outgrowth of the public comments, the EA was clarified by including a discussion of wastewater handling in the surface water section (EA, Chapter 3, pp 30-32) and a discussion of air emissions at the mine (EA, Chapter 3, pp 45-47) in an air quality section. The calculations for air emission estimates are found in Appendix A of the EA. These discussions did not lead to the finding of significant effects, and are, in fact, existing effects that are part of the baseline conditions. On page 6 of the EA, the percentages of coal likely to be mined and left in place were inadvertently reversed. It is likely that between 40-50% of the coal would be removed, leaving 50-60% behind to support the mine ceiling. The wording on pages 43-44 clarifies that the GHG emissions from burning the coal would be made up by coal originating from another location if the lease parcel coal were not made available.

Decision

Based on my review of the analysis contained within the BLM Federal Coal Lease (LBA OHES 057390) Environmental Assessment (EA), I have decided to consent to the Bureau of Land Management (BLM) for the leasing of coal deposits under approximately 433 acres of the Wayne National Forest (WNF). My decision is to implement Alternative 1, the Proposed Action, as described in the EA on pages 6 and 7.

The Forest Service does not conduct additional NEPA analysis if mining of the parcels were proposed at a later date. Thus, Alternative 1 includes a “likely development scenario”, which describes the likely method of mining that would occur if the parcels were leased and the lessee obtained a coal mining permit from the Ohio Department of Natural Resources - Division of Mineral Resources Management (DMRM). Forest Service specialists used the likely development scenario to analyze and disclose the potential effects that consenting to leasing and potential subsequent underground coal mining may have on resources.

The likely scenario for the development of these parcels (EA, pp 6 and 7) is underground mining using existing mine entrances, with no new surface activities. The room and pillar method would be used, which allows for maximum extraction of the resource while providing for worker safety. Rooms for this method will be cut into the coal using a continuous miner. This will leave a series of pillars to help support the roof overburden and to control the flow of air. As mining advances a grid of rooms and pillars will be formed underground. The percentage of coal mined will vary, it is expected that 40-50% will be removed, leaving 50-60% behind to support the mine ceiling. The pillar coal will remain after mining is completed. Workers will also drive bolts in the roof of the rooms to aid in supporting the overburden. Because the pillars will remain there is no anticipated or planned subsidence. Any water encountered will be pumped to the existing washplant or sediment pond for treatment before off-site discharge in compliance with state regulations.

As part of this decision, I am also adopting standards and guidelines contained within the Forest Plan and project specific stipulations, which were developed in order to mitigate effects and protect other resources. The area affected by the stipulations is shown on the map in Appendix B. Monitoring will continue as described in the EA in order to ensure water quality parameters remain within permitted limits (Chapter 3, p 31) and methane emissions remain at safe operating levels (Chapter 3, p 38).

Stipulations:

- For the Future Old Forest Management Area: No surface occupancy of National Forest System lands is allowed for the exploration and development of federally owned minerals, except on existing leases. (SFW-MIN-9)

- For the Diverse Continuous Forest Management Area: No surface use is permitted for the exploration and development of federally owned coal within the project area. (project-specific stipulation)
- Mining should be avoided in areas where overburden is less than 120 feet thick. According to isopach maps, this would only be in the drainages within tract x41. (project-specific stipulation)

Reasons for the Decision

My decision to select Alternative 1 was made by considering how well the alternative meets the purpose and need and responds to the issues raised during the scoping and comment periods. This decision is based on my review of the site-specific analysis presented in the BLM Federal Coal Lease (LBA OHES 057390) EA, the entirety of the project record and the comments received from the public during the 30-day notice and comment period. In selecting Alternative 1, I carefully reviewed the discussion of effects in Chapter 3 of the EA. The analysis discloses predicted environmental consequences on resources that could be impacted as well as those identified through scoping to be of public concern. My conclusions are based on a review of the entire project record, which includes a thorough review of best available science, and a consideration of opposing views (Appendix A - Response to Comments). The following narratives describe my reasons for the decision.

Response of Alternative 1 to the Purpose and Need

The purpose of this project is to respond to a Lease By Application (LBA) request made to the BLM.

Various federal laws and policies authorize the BLM to offer federal minerals for lease. Since the application involves “acquired” national forest system (NFS) lands, the applicable legal authority for the proposal is the Mineral Leasing Act for Acquired Lands of 1947. The lease by application is being processed according to BLM’s Leasing by Application Regulations, at 43 Code of Federal Regulations 3425.

The agencies’ actions are also responsive to the federal government’s continuing policy to “foster and encourage private enterprise in the development of economically sound and stable domestic mining, minerals, metal and mineral reclamation industries, and the orderly and economic development of domestic minerals” (30 USC § 21a).

The Forest Plan provides guidance regarding the management of mineral commodities including Goal 10.1, which states the Forest may “provide a supply of mineral commodities for current and future generations, while protecting the long-term health and biological diversity of ecosystems, and facilitate the orderly exploration, development and production of mineral and energy resources on land open to these activities” (USDA FS 2006b, p 2-41). Objective 10.1a states that the WNF will coordinate with the BLM to offer leases of federally owned minerals (USDA FS 2006b, p 2-41).

This legal framework requires the Forest Service to provide consent to the BLM prior to leasing federally-owned minerals in cases where the long-term health and biological diversity of ecosystems can be

appropriately maintained (43 CFR § 3400.3-1). Based on my review of the analysis contained within the EA (Chapter 3 p 11-56), the Response to Comments (Appendix A) and the entirety of the project record, I conclude that the Proposed Action can be implemented without significant impacts to ecosystems, the environment or public health. Therefore, I choose to move forward with and implement Alternative 1.

Response of Alternative 1 to the Issues

In response to the proposed action and feedback from the public, three issues were identified and were used to analyze and develop stipulations for Alternative 1.

Issue # 1: Water Quality. There is concern that consenting to lease the parcels and any subsequent mining that may occur would cause problems with subsidence and stream capture, resulting in acid mine drainage (AMD), thus adding new sources of pollution to the landscape.

Response of Alternative 1 to Water Quality Concerns

The potential impacts to groundwater and surface water that may result from the Proposed Action were analyzed and disclosed in the EA (EA Chapter 3, pp 12-35). One project specific stipulation that excludes a portion of parcel x41 from mining was developed in order to ensure the maintenance and protection of water resources (EA, Chapter 3, pp 17-18).

Activities within Alternative 1 were analyzed with the objective of minimizing effects on water quality. Surface expression of subsidence, stream capture and generation of AMD were the focus of the analysis. All available data on the substrata, current mining in the area and the likely development scenario indicate that surface expression of subsidence, stream capture and AMD generation are very unlikely to occur. Other impacts to water resources are also unlikely.

Comments received during the 30-day comment period further clarified that there were public concerns related to waste water handling. The EA was clarified with regards to the extent and nature of effects to water quality due to the leasing and potential mining of the parcels (EA, Chapter 3, pp 30-32). Several commenters submitted concerns dealing with coal ash storage/disposal. These concerns are addressed in the Response to Comments (Appendix A).

I am satisfied that the analysis describes a hard look at potential water resource impacts, thorough consideration has been given to the protection of water resources and the selection of the Proposed Action will not involve activities that pose a significant risk to surface or ground water.

Key Issue # 2: Greenhouse Gas (GHG) Generation

Issue Statement:

Scoping responses revealed concern that if the parcels were leased and then subsequently mined there would be amounts of GHGs released into the atmosphere that would contribute to global climate change.

Response of Alternative 1 to GHG Generation:

In 2009 the Forest Service released a guidance document dealing specifically with how to consider climate change effects during project analysis (USDA FS 2009). In 2010 the Council on Environmental Quality (CEQ) issued draft guidance to federal agencies for the consideration of climate change effects in NEPA analyses (Sutley 2010). These strategies were the basis for the rationale behind the GHG effects analysis found in Chapter 3 of the EA. The CEQ draft guidance gives agencies a potential threshold for

which to consider effects – direct emissions of 25,000 metric tons of CO_{2e} annually (Sutley 2010). Direct emissions in this case reference the Intergovernmental Panel on Climate Change's (IPCC) categorization of emissions as direct, indirect or other indirect, whereby direct emissions occur on the premises of the subject facility. On the WNF we have never quantified the release of GHGs from our project activities, so there was no basis from which to compare how much GHG generation potential there was from this proposed action (the likely development scenario). A project-level assessment was completed to determine how much GHG could be released if the lands were leased and subsequently mined.

As noted in the EA, pg 44,

“The Scope I [direct] emissions were found to be well below the minimum threshold proposed by the CEQ to suggest that analysis could be useful. Commenters brought up the issue of GHG emissions during scoping and since this is the first project of this nature to be analyzed on the Wayne National Forest, there was no basis for comparison to determine if the emissions would be below the proposed threshold. For that reason, the Responsible Official determined that some quantification of emissions could be useful in reaching a decision. It is not expected that a GHG analysis as detailed as this will be completed for other projects in the future.”

As stated, the direct emissions were found to be well below the proposed threshold. In addition, emissions from electricity and fuel used at the mine site and the emissions from burning the coal were assessed. These emissions were compared to current levels for the surrounding area and were found not to be significant in light of the existing emissions (EA, Chapter 3, pp 40-45). Additional consideration to GHG emissions can be found in the Response to Comments (Appendix A).

I am satisfied that appropriate consideration has been given to the GHG generating potential of implementing the Proposed Action and that the activities will not lead to significant releases of GHGs.

Issue # 3: Federally Threatened or Endangered Species and Regional Forester Sensitive Species (TES):

All activities planned on the National Forest must be analyzed to consider the nature of effects on TES species. Aside from the requirements to consider impacts of activities on TES, the Wayne also received comments concerned with impacts of the ash generated from burning the coal on TES.

Response of Alternative 1 to Federally Threatened or Endangered Species and Regional Forester Sensitive Species (TES):

It is important to recognize that if the parcels are leased any subsequent mining would be limited to underground extraction methods. The Forest Plan prohibits surface activities associated with federally-owned minerals operations in the Future Old Forest Management Area. A project-specific stipulation was developed to prohibit surface use on the acres of the project area within the Diverse Continuous Forest Management Area (EA, Chapter 2, p 6). Therefore, there will be no surface activities on the parcels if they are leased and mined.

There is no planned subsidence. As described in the likely development scenario (EA, Chapter 2, p 6), the room and pillar method would be used for mining, with 50-60% of the coal remaining in place to support the ceiling. BLM independent calculations have determined that the design should be sufficient to hold the ceiling for the long term and prevent the slumping of the ground surface (Howell 2012). As discussed in the groundwater section of the EA (Chapter 3, pp 14, 17-20), the area with the minimum amount of overburden (approximately 85 feet) has been excluded from mining in order to prevent any alterations of groundwater flowpath. This stipulation was designed to protect groundwater, but would also prevent effects to plants and wildlife, since it would provide for the maintenance of current groundwater levels, which various plants and animals may be dependent on.

A few comments were concerned with the impacts of coal ash storage on TES. These concerns are addressed in the Response to Comments (Appendix A).

Other Alternatives Analyzed

In addition to the Selected Alternative, I considered a No Action Alternative.

Alternative 2—No Action

Under the No Action Alternative, the seven parcels in Lease by Application (LBA) OHES 057390 would not be leased. Management of WNF resources would continue. Any revenues from leasing federally-owned coal and subsequent mining would be lost. It is likely that mining of the adjacent non-federal coal would continue, which would make the coal under these parcels economically unrecoverable.

The No Action Alternative provides a baseline on which to compare how conditions might change and resources be impacted from the activities proposed in Alternative 1.

The No Action Alternative does not respond to the Purpose and Need laid out in Chapter 1 of the EA and described on pages 5 and 6 of this decision. For this reason I did not select Alternative 2.

Public Involvement

Preparation of the EA followed the procedures outlined at 36 CFR 220 and 36 CFR 215. The BLM Federal Coal Lease (LBA OHES 057390) Project has been listed on the Schedule of Proposed Actions (SOPA) since January 1, 2013 and is also listed on the Forest's webpage at: <http://www.fs.usda.gov/projects/wayne/landmanagement/projects>. A scoping letter and map were prepared and mailed to 76 interested parties on the mailing list. This scoping period was open through January 4, 2013.

One letter was submitted within the scoping timeframe. Another letter was received late in January. The comment letters are included in the project record (Project Record, Section 04). Response to Scoping Comments is included as an Appendix to the EA (EA, Appendix B). Comments were used to develop issues and alternatives.

A 30-day public comment period was provided on the EA beginning with a legal notice in *The Athens Messenger* on May 5, 2013. Notification of the availability of the EA and comment period was sent to the two individuals that submitted letters in response to the scoping notice. In addition, a press release was sent out to the WNF media list.

Approximately 1500 responses were received, with more than 1450 being a form letter. Of those 1500 responses, many were received after the comment period closed. Many of the comments were

concerned with the potential impacts that burning the coal could have on the human environment. The IDT team and I carefully considered all of the comments submitted.

After review of public input, I have decided that most concerns can be addressed in the Response to Comments (Appendix A). In order to address public comments related to wastewater and air quality, the EA was clarified with a discussion of wastewater handling in the surface water section (EA, Chapter 3, pp 30-32) and a discussion of air emissions at the mine (EA, Chapter 3, pp 45-47) in an air quality section.

Finding of No Significant Impact

I reviewed the EA, associated analyses and appendices and find there is adequate information within these documents to provide a reasoned choice of action. I am fully aware of adverse effects that cannot be avoided and believe the benefits are outweighed by the risks. Implementing the Proposed Action will cause no significant or unacceptable direct, indirect or cumulative impact to any resource.

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

Context: The context of Alternative 1 (the selected alternative) is limited to the local area encompassed by the proposed lease parcels and impacts to resources as bounded in the environmental assessment. Chapter 3 of the Environmental Assessment analyzes these effects at different scales. All actions are consistent with the Forest Plan and are within the range disclosed in the Final Environmental Impact Statement. The types of activities selected to be implemented are similar to activities that have occurred in the past in this area or areas that are similar. This action may lead to the future mining of the parcels. The interdisciplinary team considered a “likely development scenario”, which described the potential mining methods, in order to carry out the project analysis. No significant effects were identified during the analysis.

Intensity: Ten elements of impact intensity identified in 40 CFR 1508.27b have been considered in assessing the potential significance of project effects. They are as follows:

- 1) **Impacts that may be beneficial and adverse.** My finding of no significant environmental effects is not biased by the beneficial effects of the action. The beneficial and adverse impacts are disclosed in the EA and no significant effects on the human environment have been identified. Beneficial effects will include a bonus paid at the time of the lease, an annual rental fee, a production royalty and business generated for supplies and services. Beneficial effects have not been used to offset or compensate for potential adverse effects. No significant irreversible or irretrievable commitments of resources, such as loss of soil productivity, water quality, wildlife habitat, or recreational opportunities, will result from this project. Chapter 3 of the BLM Federal Coal Lease (LBA OHES 057390) EA provides greater detail regarding effects (Chapter 3, pp 11-56).
- 2) **The degree to which the proposed action affects public health or safety.** Significant effects to public health and safety are not anticipated to result from implementation of Alternative 1 because implementation incorporates appropriate safety measures. Stipulations will prevent surface occupancy on the lease parcels and will prevent mining in the area where there is some risk of impacts to water resources (EA, Chapter 3, pp 6-7, 17-18, 19-20 and 28). Workings at the mine are regulated by the Mining Safety and Health Administration (MSHA) and the ODNR Division of Mineral Resources Management in order to maintain worker and public safety.

- 3) **Unique characteristics of the geographic area such as proximity to historic or cultural resources, parklands, prime farmlands, wetlands, wild and scenic rivers or ecologically critical areas.** There are no unique characteristics within the project area, such as park lands, prime farmlands, wetlands, wild and scenic rivers, ecologically critical areas, or historic or cultural resources, that would be impacted by project implementation. More information is provided in the Coal Unsuitability Analysis and Report which is contained within the project record (Project Record, Section 02).
- 4) **Degree to which the effects on the quality of the human environment are likely to be highly controversial.** As with any decision to act on National Forest System lands, some degree of disagreement exists. This decision to lease coal reserves and its effects are not unique. There is no scientific controversy over the nature of the impacts. I recognize that there is uncertainty regarding the long-term intensity of effects that may be realized from global climate change. The Intergovernmental Panel on Climate Change (IPCC) has developed various scenarios, which attempt to model future emissions based on assumptions made regarding technological advances, population dynamics and economics (IPCC 2000). These scenarios were used to model potential future effects at a broad scale (IPCC 2007). While the scenarios are based on numerous assumptions, the resulting broad-scale effects are predicted with a high level of confidence (IPCC 2007, Chapter 3). It is not possible to say how any of these scenarios will translate into local impacts, as the process of down-scaling projections to the necessary degree is still in its infancy. This project analysis follows the current Forest Service guidance that there may be value when making decisions in quantifying the amount of GHG emissions. The quantity of emissions may be used as a proxy for disclosure of actual effects (USDA FS 2009). The estimated GHG emissions have been quantified and disclosed in the EA (Chapter 3, pp 37-45). It is clear that this project will not influence which scenario materializes, given its small scale as represented by the calculated emissions. The potential intensity of effects on the quality of the human environment is minimal (EA, Chapter 3, pp 11-56).
- 5) **Degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.** Underground coal mining is ongoing in the immediate vicinity of the project parcels. Coal mining has been ongoing in the area for over 100 years and the Forest Service has been making decisions on similar actions for many years. I recognize that there is uncertainty regarding the long-term intensity of effects that may be realized from global climate change. The Intergovernmental Panel on Climate Change (IPCC) has developed various scenarios, which attempt to model future emissions based on assumptions made regarding technological advances, population dynamics and economics (IPCC 2000). These scenarios were used to model potential future effects at a broad scale (IPCC 2007). While the scenarios are based on numerous assumptions, the resulting broad-scale effects are predicted with a high level of confidence (IPCC 2007, Chapter 3). It is not possible to say how any of these scenarios will translate into local impacts, as the process of down-scaling projections to the necessary degree is still in its infancy. This project analysis follows the current Forest Service guidance that there may be value when making decisions in quantifying the amount of GHG emissions. The quantity of emissions may be used as a proxy for disclosure of actual effects (USDA FS 2009). The estimated GHG emissions have been quantified and disclosed in the EA (Chapter 3, pp 37-45). It is clear that this project will not influence which scenario materializes, given its small scale as represented by the calculated emissions. The determination is that there will be no significant contributions to GHGs in the atmosphere from implementing the Proposed Action. (EA, Chapter 3, pp 11-56).
- 6) **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.** The action of consenting to lease the parcels may lead to their eventual mining. However, the interdisciplinary team considered a “likely development scenario”, which described the potential mining methods, in order to carry out the project analysis. No significant effects were identified during the analysis. The effects from implementation are represented by the baseline effects, which would be extended for the period of approximately one year. The action will not establish a precedent for future actions with

significant effects, because it conforms to all existing Forest Plan direction and is applicable only to the project area.

- 7) **Whether the action is related to other actions with individually insignificant but cumulatively significant impacts.** No potentially significant adverse cumulative effects of the project have been identified (EA, Chapter 3, pp 11-56). The cumulative effects of the proposed actions have been analyzed with consideration for past, present and foreseeable future activities. Based on the small acreage involved and the project specific stipulations (EA pp 6-7) resources in the analysis area are expected to be protected in the short and the long-term.
- 8) **Degree to which the action may adversely affect districts, sites highways, structures or objects listed in or eligible for listing in the National Register of Historic Places, or the degree to which the action may cause loss or destruction of significant scientific, cultural or historical resources.** There are no archeological sites eligible for or listed in the National Register of Historic Places within the lease parcels (EA, Chapter 3, p 56 and Heritage Resources Input, Project Record, Section 06).
- 9) **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 Endangered Species Act.** There are likely to be no adverse effects to any federally threatened or endangered species or their critical habitat (EA, Chapter 3 pp 47-56 and DN Appendix A).
- 10) **Whether the action threatens a violation of federal, state or local law or other requirements imposed for the protection of the environment.** The action will not violate Federal, State and local laws or requirements for the protection of the environment. The action is consistent with the WNF Land and Resource Management Plan (EA p 2).

Incorporation by Reference

My decision incorporates the following documents by reference:

- USDA Forest Service. 2006a. Final Environmental Impact Statement for the 2006 Land and Resource Management Plan. Eastern Region. Wayne National Forest. Nelsonville, OH. 416 p.
- USDA Forest Service. 2006b. Land and Resource Management Plan. Eastern Region. Wayne National Forest. Nelsonville, OH. 308 p.
- USDA Forest Service. 2013. BLM Federal Coal Lease (OHES 057390) Project Environmental Assessment. 59 p.

Legal Requirements and Policy

In reviewing the EA and actions associated with Alternative 1, I have concluded that my decision is consistent with the following laws and requirements:

The National Environmental Policy Act (NEPA)

NEPA establishes the format and content requirements of environmental analysis and documentation as well as requirements for public involvement and disclosure. The entire process of preparing this environmental assessment was undertaken to comply with NEPA.

The National Forest Management Act (NFMA)

I find that the actions described in the chosen alternative, Alternative 1, and in this decision comply with the requirements of the National Forest Management Act (NFMA), and the NFMA implementation regulations in 36 CFR 219. Furthermore, the development and analysis of this project used the best available science and are consistent with the direction laid out in the Forest Plan.

The 2006 WNF Land and Resource Management Plan provides direction related to minerals management, including Goal 10.1, which states the Forest should provide a supply of mineral commodities for current and future generations, while protecting the long-term health and biological diversity of ecosystems, and facilitate the orderly exploration, development and production of mineral and energy resources on land open to these activities. Objective 10.1a states that the WNF will coordinate with the BLM to offer leases of federally owned minerals.

Alternative 1 is also consistent with the goals, objectives and standards for the Future Old Forest and Diverse Continuous Forest Management Areas, since the activity is not prohibited and there will be no surface activities on the project parcels.

Surface Mining Control and Reclamation Act of 1977 (SMCRA)

The Surface Mining Control and Reclamation Act of 1977 (SMCRA) requires States and Federal agencies to designate the lands that are unsuitable for surface coal mining. Section 522(e) 2 states that subject to valid existing rights, no coal mining operations shall be permitted on any Federal lands within the boundaries of any National Forest unless they are permitted based upon the findings of a compatibility determination, as defined in the act. A Coal Unsuitability Analysis and Report was completed (Project Record, Section 02). Each of the twenty unsuitability criteria was considered and the tract was determined to be suitable for coal mining based on the analysis of the twenty criteria.

Mining and Minerals Policy Act of 1970

The proposed action will foster and encourage the development of economically sound and stable industries, and the orderly and economic development of domestic resources to help assure satisfaction of industrial, security and environmental needs. This alternative will provide for the extraction of coal from beneath the Forest Service tracts in a way that will adequately protect non-mineral resources. While protecting non-mineral resources, it will also allow for utilization of a needed resource, produce severance tax income for the local economy and assist in maintaining employment opportunities in the area.

The Mineral Leasing Act for Acquired Lands of 1947

The Mineral Leasing Act for Acquired Lands of 1947 extends the provisions of the Mineral Leasing Act and the authority of the Secretary of the Interior over mineral extraction operations to federal acquired lands. This act allows for the leasing of acquired federally-owned minerals in order to promote the mining of coal, phosphate, sodium, potassium, oil, oil shale, gas and sulfur on lands acquired by the United States. The implementation of the proposed action would give consent to the BLM to allow the leasing of federally-owned coal.

American Antiquities Act of 1906, National Historic Preservation Act, American Indian Religious Freedom Act and Native American Graves Protection and Repatriation Act

A cultural resource review was completed and determined there should be no effect to cultural resources from project implementation, since there will be no surface activities and no subsidence (EA p 56 and Heritage Resources Input, Project Record, Section 06).

The Endangered Species Act of 1973, as amended

No loss of habitat or loss of ability to maintain habitat will occur due to implementation of Alternative 1. In regards to federal proposed, threatened or endangered wildlife species, only the Indiana bat and American burying beetle are considered to have habitat within the project area. Because there will be no surface activities and because there is no expected subsidence, the finding for these species is no effect (Wildlife Biological Evaluation, Project Record, Section 06). For federal proposed, threatened or endangered plant species the finding is one of no effect, since there are no surface activities and no expected subsidence (Botanical Biological Evaluation, Project Record, Section 06). When the finding is one of “no effect” consultation with the US Fish and Wildlife Service is not necessary.

The Clean Water Act, 1982 and 303(d)

Alternative 1 will comply with the Clean Water Act. This Act establishes a non-degradation policy for all federally proposed projects. Upon review of the Groundwater Report, Surface Water Report (EA, Chapter 3, pp 12-35) and Response to Comments (Appendix A), I find that Alternative 1 will comply with water quality standards and will not lead to a degradation of water quality.

The Clean Air Act

Implementation of Alternative 1 will comply with the Clean Air Act. I have reviewed the Air Quality section of the EA (Chapter 3, pp 45-47). Since there are active mining operations in the immediate vicinity of the lease parcels and mining of the parcels is not expected to increase the rate of coal extraction, there would be no increase in annual air emissions as a result of implementing Alternative 1. I find that Alternative 1 will comply with air quality standards and will not lead to degradation of air quality.

Civil Rights and Environmental Justice

Executive Order 12898 on environmental justice requires federal agencies to identify and address any disproportionately high and adverse human health or environmental effects on minority and low income

populations. After evaluating the EA, I have determined that there would be no discernable impacts from any of the Alternatives on minorities or the Civil Rights of any American citizen.

Implementation

This project is subject to appeal. If no appeals are filed within the 45-day time period, implementation of the decision may occur on, but not before, 5 business days from the close of the appeal filing period. When appeals are filed, implementation may occur on, but not before, the 15th business day following the date of the last appeal disposition.

Following the signing of my decision, the Forest Service will provide information to the BLM including a copy of this Decision Notice and references to all applicable NEPA analysis documents and consent decision, all title reports, worksheets and stipulations related to the Federal mineral estate, a copy of the leasing application, the Coal Unsuitability Analysis and Report, the areas affected by any stipulations developed from the review process and a map. Following that transmittal, the BLM will make a separate decision on whether or not to offer the parcels for lease. Once the WNF has consented, the BLM will determine if/when to offer the parcels for a competitive lease sale.

Appeal Rights

Since this project was scoped, the agency adopted rules found at 36 CFR 218 establishing an objection period in lieu of an appeals period. These rules allow for the use of notice, comment and appeal procedures found at 36 CFR 215 for projects scoped prior to March 27, 2013 that included notice that 36 CFR 215 would be used. This project was scoped from December 17, 2012 to January 4, 2013. The scoping notice did indicate that the process detailed at 36 CFR 215 would be followed; therefore, this decision is subject to appeal pursuant to 36 CFR 215.

The 45-day appeal period begins the day following the date the legal notice of this decision is published in *The Athens Messenger*, Athens, OH. Only individuals or organizations that submitted comments during the 30-day comment period may appeal. Notices of appeal must meet the requirements of 36 CFR 215.14. Appeals can be submitted in several forms, but must be postmarked (for mailed appeals) or received by the Appeal Deciding Officer, Regional Forester Kathleen Atkinson, within 45 days from the date of publication of notice of the decision in *The Athens Messenger*, Athens, OH. **Appeals may be mailed or hand-delivered to:**

**USDA Forest Service, Eastern Region
ATTN: Appeal Deciding Officer, Regional Forester Kathleen Atkinson
626 E. Wisconsin Ave, Ste 700
Milwaukee, WI 53202-4616**

Emailed to: appeals-eastern-regional-office@fs.fed.us Subject: BLM Federal Coal Lease (LBA OHES 057390)

Fax: 414-944-3963 Attn: Appeal Deciding Officer, Regional Forester Kathleen Atkinson, USDA Forest Service, Eastern Region

Electronic appeals must be submitted as part of an actual e-mail message, or as an attachment in Microsoft Word (.doc), rich text format (.rtf), or portable document format (.pdf) only. E-mails submitted to addresses other than the ones listed above or in formats other than those listed above or containing viruses will be rejected. It is the responsibility of the appellant to confirm receipt of appeals submitted by electronic mail. For electronically mailed appeals, the sender should normally receive an automated electronic acknowledgement from the agency as confirmation of receipt. If the sender does not receive an automated acknowledgement of the receipt of the appeal, it is the sender's responsibility to ensure timely receipt by other means.

Normal business hours for hand-delivered appeals are Mon-Fri, 7:30-4:00.

Contacts and Additional Information

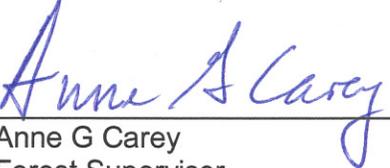
Project records are on file at the Athens Ranger District office. The EA and decision are also available on the internet at:

<http://www.fs.usda.gov/projects/wayne/landmanagement/projects>

For additional information concerning the specific activities authorized with this decision, you may contact Rich Jones (Interdisciplinary Team Leader) or Rachel Orwan (NEPA Coordinator) at 13700 US Hwy 33, Nelsonville, OH 45764, 740-753-0101.

Responsible Official

The Forest Supervisor of the Wayne National Forest is the official responsible for deciding which alternative to approve in the BLM Federal Coal Lease (LBA OHES 057390) Project.



Anne G Carey
Forest Supervisor
Wayne National Forest



Date