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*Mary Ann Wright, Ron Daniel
filed Pam, OK*



United States
Department of
Agriculture

Forest
Service

Manti-La Sal
National Forest

Supervisor's Office
599 West Price River Drive
Price, UT 84501
Phone # (435) 637-2817
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File Code: 2820-4
Date: September 5, 2001

Sally Wisely
State Director
USDI - Bureau of Land Management
P.O. Box 45155
Salt Lake City, UT 84145-0155

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to Aaron:
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Dear Ms. Wisely:

The Manti-La Sal National Forest has completed the environmental documentation of PacifiCorp's application to modify Federal Coal Lease U-06039 to allow underground access from the Deer Creek Mine permit area to the Mill Fork State Lease ML-48258. The Decision Memo documenting my decision to consent to the lease modification and full-support mining is enclosed. The lease modification and mining are subject to the terms, conditions, and special stipulations currently contained in the adjacent Federal lease; no new stipulations are necessary.

Please contact Carter Reed, at the above address, if you have any questions.

Sincerely,

for Elaine J. Zieroth
ELAINE J. ZIEROTH
Forest Supervisor

Enclosure

cc:
Lowell Braxton,
Utah Division of Oil, Gas and Mining

RECEIVED
SEP 11 2001
DIVISION OF
OIL, GAS AND MINING



Decision Memo

PACIFICORP (Energy West)
MODIFICATION OF FEDERAL COAL LEASE U-06039
DEER CREEK COAL MINE
Underground Access to State Lease ML-48258 (State Lease)

USDA Forest Service, Intermountain Region
Manti-La Sal National Forest
Ferron-Price Ranger District
Emery County, Utah

I. INTRODUCTION

The Manti-La Sal National Forest and Bureau of Land Management have evaluated a proposal submitted by PacifiCorp to modify Federal Coal Lease U-06039 by adding 65.7 acres of adjacent unleased National Forest System lands. The lease modification area lies on National Forest System lands administered by the Manti-La Sal National Forest in Emery County, as follows (see attached maps, Enclosure 1):

T. 16 S., R. 7 E., SLM, Emery County, Utah
Section 19, lots 2, 3, W2SWNE.

PacifiCorp's application would involve adding these two parcels (lots) to the current lease, subject to lease stipulations already contained in the existing lease, including those to prevent subsidence of perennial drainages and reservoirs, unless specifically addressed under the National Environmental Policy Act of 1969 and approved.

The purpose of the lease modification is to allow underground access from the existing Deer Creek Mine permit area to the Mill Fork State Lease ML-48258 (State lease) and potential mining of additional minor unleased coal reserves which are directly adjacent to the existing lease. Access to the lease could otherwise be from the existing Genwal Coal Company Crandall Canyon Mine that lies to the north. PacifiCorp, owner of the Deer Creek Mine, is the lessee of record for the State lease and the Federal lease to be modified. Since PacifiCorp is the lease holder and has the right to mine the State lease, they need the lease modification to obtain access. The Utah School and Institutional Trust Lands Administration (SITLA), the coal estate owner, also desires to invoke their outstanding right of access to the State lease, through their lessee (PacifiCorp), to allow mining and generate funds for Utah schools. The proposed and reasonably foreseeable underground access-way would consist of a set of full-support main entries separated by pillars. No subsidence would occur within this modification area or be authorized in the subsequent mine plan. Subsidence monitoring at the Deer Creek Mine (Annual Subsidence Monitoring Reports, East/Trail Mountain Properties, PacifiCorp 1999) and other mines on the Wasatch Plateau and Book Cliffs Coal fields has shown that no subsidence will occur over systems of main entries such as those proposed for access to the State lease.

Since no subsidence or surface disturbance is expected and there are no extraordinary circumstances related to the proposed activity, the project qualifies for categorical exclusion from preparation of an Environmental Assessment or Environmental Impact Statement under Forest Service Handbook 1909.15, Section 31.1b, Item 7, "Sale or exchange of land or interest in land and resources where resulting land uses remain essentially the same".

Leasing and mining of the State lease was evaluated in the Environmental Assessment (EA) for the Mill Fork Federal Coal Lease Tract UTU-71307 (Decision Notice/Finding of No Significant Impact dated September 23, 1997) that was completed prior to transfer of the coal estate from Federal ownership to SITLA under the Utah Schools and Lands Exchange Act of 1998. It is not anticipated that the lease modification area or future mining of the State lease would involve issues or effects not previously addressed in the Mill Fork Tract EA.

II. DECISION

The coal estate to be accessed (State Lease ML-48258) is owned by SITLA. SITLA has an outstanding right of access to their coal estate for the purpose of coal exploration and mining. The proposed coal lease modification with underground mains would provide reasonable access to SITLA's coal estate from the underground workings at the existing Deer Creek Mine.

I have decided to consent to modification of the coal lease by the Bureau of Land Management, subject to the terms, conditions, and special stipulations currently contained in the adjacent Federal lease for the protection of non-coal resources on National Forest System lands, consistent with Forest Plan direction.

It is my determination that this decision may be categorically excluded from preparation of an Environmental Assessment (EA) or Environmental Impact Statement (EIS) under Forest Service Handbook 1909.15, Chapter 30, Section 31.1b, Item 7): "Sale or exchange of land or interest in land and resources where resulting land uses remain essentially the same." This category was determined appropriate because leasing of these lands would not result in any effects to non-coal resources on National Forest System lands, no impacts to extraordinary circumstances have been identified already in Federal Lease U-06039, and surface uses would remain the same.

The proposal, with stipulations, would provide adequate protection of Forest resources. The proposal is consistent with all Forest Plan requirements.

My decisions will be implemented via transmittal of the Forest Service consent letter and this Decision Memo to the Bureau of Land Management, Utah State Director.

The project may be implemented by BLM immediately upon receipt of the Forest Service consent letter.

III. DECISION RATIONALE

This decision was made after careful consideration of the proposal, public involvement, and the entirety of the supporting record. No one fact or single piece of information led to the decisions. Rather, a combination of factors contributed to it. The key considerations are discussed in the following sub-parts.

Attainment of Agency Goals:

The general purpose and need for this project is to accomplish the following goal of the Forest Plan: "Provide appropriate opportunities for and manage activities related to locating, leasing, development, and production of mineral and energy resources." (Forest Plan, p. III-4). Another related goal of the Forest Plan is: "Manage geologic resources, common variety minerals, ground water, and underground spaces (surficial deposits, bedrocks, structures, and processes) to meet resource needs and minimize adverse effects."

The project-specific purpose and need of the proposed action is to allow SITLA and PacifiCorp access to the State Lease for coal exploration and mining and to recover isolated coal reserves adjacent to the existing leases and permit area consistent with the associated outstanding rights and Service policy and Forest Plan direction.

The decision wholly meets the project's purpose and need.

Extraordinary Circumstances:

Existing resource conditions, public comments, and potential extraordinary circumstances have been considered in making the decisions. The project lies within the East Mountain RARE II Area (Inventoried Roadless), watersheds, and wildlife habitat, however since there would be no subsidence or disturbance of surface resources, there would be no effects on the extraordinary circumstance present. The project area is in an RNG (Range) Forest Plan Management Unit where management emphasis is on production of forage and cover for domestic livestock and wildlife. Mineral development is allowed with appropriate mitigation to assure continued livestock access and use (Forest Plan, Pg. III-66).

Steep slopes or highly erosive slopes. The proposed project would not affect steep slopes or highly erosive soils.

Threatened and endangered species or their critical habitat. The project will not affect any Threatened and Endangered Species (see Attachment 2, Biological Assessment).

Floodplains, wetlands, or municipal watersheds. The project will not affect floodplains, wetlands, or municipal watersheds.

Congressionally designated areas, such as wilderness, wilderness study areas, or National Recreation Areas. There are no wilderness, wilderness study areas, or National Recreation Areas in the project area.

Inventoried roadless areas. The project area lies within the East Mountain RARE II area.

The decision would have no effect to roadless or roadless character. The decision to consent to leasing of the 65.7 acre modification area by BLM involves adding the modification area (lots) to an existing Federal lease. The Forest Service decision to authorize the modification is limited to the modification area and mining of full-support mains to access the State Lease. There would be no subsidence or effects to surface resources. No roads are reasonably foreseeable. Any future proposals to conduct mining, other than full-support, or conduct surface disturbing activities would require additional analyses under the National Environmental Policy Act and appealable decisions. Federal Lease U-06039, Special Stipulation 3 (Section 15) requires approval of operations under the Surface Mining Control and Reclamation Act and Utah Coal Rules.

Research Natural Areas. The project area is not located within any Research Natural Areas (RNAs).

Native American religious or cultural sites, archeological sites, or historic properties or areas. It has been determined that the project does not have the potential to affect cultural, archaeological, or historic properties.

Relationship to Public Involvement:

Public comments were sought and considered throughout the planning process for this project as discussed in the next section of this document. Two responses were received by letter. The U.S. Fish and Wildlife Service stated that raptor activities such as foraging and nesting may be present in the area and that appropriate surveys and protection measures must be used to protect them. They also stated that all Threatened and Endangered species and migratory birds occurring in the area must be protected as required under the Endangered Species Act and Migratory Bird Treaty Act. Raptor surveys are done annually by PacifiCorp. There will be no impacts to the surface, so there will be no impacts to raptors. In addition, any water depletions must be considered and a determination made as to whether or not Colorado River endangered fish species could be affected. Any water encountered would be discharged into Huntington Creek, which ultimately flows into the Green and Colorado Rivers. No depletion of water would occur in the Colorado River or its tributaries, and there would be no impact to sensitive or endangered fish. The Utah Environmental Congress also responded by letter. They stated that the project does not qualify for categorical exclusion because the project lies in the East Mountain inventoried roadless area that contains cultural and wildlife values. Also, the project lies within a municipal watershed. They state that roadless, cultural and wildlife values, and municipal watersheds are considered extraordinary circumstances triggering the need for an EA or EIS (Forest Service Handbook 1909.15, Section 31.1b, Item 7).

The decision to consent to leasing of the 65.7 acre modification area by BLM results in adding the adjacent acreage to the existing Federal lease. The Forest Service decision to consent to the modification is limited to the modification areas and mining of full-support mains to access the State Lease. There would be no subsidence or effects to surface resources. Any future proposals to conduct mining, other than full-support mining, or conduct surface disturbing activities would require additional analyses under the National Environmental Policy Act and appealable decisions. Special Stipulation 3 (Section 15) requires approval of operations under the Surface Mining Control and Reclamation Act and Utah Coal Rules.

Since there would be no effects to National Forest resources, including roadless, municipal watersheds, cultural, or wildlife values, it has been determined that there are no effects to extraordinary circumstances (See Sections III and V).

IV. PUBLIC INVOLVEMENT

Legal notices describing the proposal and requesting issues/comments were published in the Sun Advocate (Price, Utah) and the Emery County Progress (Castle Dale, Utah) on June 21, 2001. Letters describing the proposal and requesting issues/comments were mailed to 20 interested individuals/agencies on June 21, 2001. Comments received are discussed above. This project was also listed in the Quarterly Report of NEPA Actions for the Forest.

V. FINDINGS REQUIRED BY OTHER LAWS AND REGULATIONS

To the best of my knowledge, the decision complies with all applicable laws and regulations. In the following, the association of the decision to some pertinent legal requirements are summarized.

National Forest Management Act of 1976: The Forest Plan was approved November 5, 1986, as required by this Act. This long-range land and resource management plan provides guidance for all

resource management activities in the Forest. The National Forest Management Act requires all projects and activities to be consistent with the Forest Plan. The Forest Plan has been reviewed in consideration of this project. The decision will be consistent with the Forest Plan.

National Historic Preservation Act: The proposal would not result in any impacts for cultural or historic resources.

Endangered Species Act: The Biological Assessment/Biological Evaluation (Attachment 2) has disclosed that this project will not result in impacts to threatened, endangered, or sensitive plant or animal species. Therefore the Forest Biologist determined there is no need to further evaluate threatened, endangered, or sensitive plant or animal species. No water in the Colorado River system will be used or depleted for this project. There would be no effects to threatened or endangered Colorado River species.

Sensitive Species: As discussed in the attached Biological Evaluation, there is no potential for effects to surface resources and wildlife.

National Environmental Policy Act: The entirety of documentation for this project supports that the project analysis complies with this Act.

Environmental Justice: Based on experience with similar projects on the Ferron-Price Ranger District, it is believed that this project would not have any disparate impacts on individual groups of peoples or communities. Implementation of this project will produce no adverse effects on minorities, low-income individuals, Native Americans or women. No civil liberties will be affected.

VI. IMPLEMENTATION DATE AND APPEAL OPPORTUNITY

Implementation of the lease modification by BLM may occur upon receipt of the Forest Service consent letter and Decision Memo. The BLM is responsible for lease administration and enforcement. Monitoring of subsidence, hydrology, and other resources would be conducted in conjunction with mining associated with the existing Deer Creek Mine permit area and any future mining in the State lease.

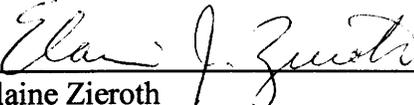
This decision is not subject to appeal by the public in accordance with the Code of Federal Regulations Title 36 part 215.

This decision is subject to appeal by the applicant under Code of Federal Regulations Title 36 part 251.

VII. CONTACT PERSON

For additional information concerning the Forest Service decision, please contact Carter Reed at the USDA Forest Service, Manti-La Sal National Forest (address: 599 West Price River Drive, Price, UT 84501; telephone: 435-637-2817).

VIII. SIGNATURE AND DATE


Elaine Zieroth
Forest Supervisor
Manti-La Sal National Forest


Date

TRANSACTION REPORT

P. 01

SEP-11-2001 TUE 12:40 PM

FOR: OIL, GAS & MINING 801 359 3940

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