

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## DEPARTMENT OF AGRICULTURE

### Forest Service

#### Gray Mountain Coal Lease Proposal

**AGENCIES:** Forest Service, USDA; Cooperating Agencies: Bureau of Land Management, (BLM) and the Office of Surface Mining, (OSM).

**ACTION:** Revised notice of intent for coal leasing beneath the Daniel Boone National Forest in Leslie County, Kentucky.

**SUMMARY:** The U.S. Forest Service (USFS) is preparing a Land Use Analysis/Environmental Impact Statement (LUA/EIS) to analyze the environmental impacts of leasing three federal coal reserve tracts. The three tracts total 1,210.44 acres and underlie lands administered by the Redbird Ranger District of the Daniel Boone National Forest. The tracts are adjacent to an existing underground coal mine on private lands.

The name of the project has been modified since the previous Notice of Intent was published. The Notice of Intent (NOI) that was published in the **Federal Register** on February 13, 2003; (pgs. 7338–7340) had the project named as the “Beech Fork Coal Lease Proposal.” It has been revised to the Gray Mountain Coal Lease Proposal.

The second revision pertains to the type of documentation that was to be prepared for the project. The previous NOI stated that a project specific Land and Resource Management Plan amendment was to be done in conjunction with the EIS. The proposal will be analyzed by a LUA/EIS. A LUA is provided to address coal lease applications by 43 CFR 3420.1–4.

The previous NOI also states that the EIS will address the Unsuitability Criteria listed in (43 CFR 3461). The criteria will not be assessed on these properties based upon the decision of June 3, 2003, *Citizens Coal Council, et*

*al., v. Secretary of Interior*, and the National Mining Association, which deals with the definition of “surface coal mining operations.” The decision of the Court was that subsidence is not included in “surface coal mining operations” as defined by the Surface Mining Control and Reclamation Act. Therefore, the Unsuitability Criteria will not be applied in this LUA/EIS based on the requirements of the Underground Mining Exemption found at 43 CFR 3461.1.

Lastly, the previous NOI had some dates set by when we anticipated the draft and the final EIS to be completed. The dates as to when the draft and final EIS is completed will be announced in the **Federal Register** by separate notice.

**Authority:** The Mineral Leasing Act of 1920 (MLA) authorizes the leasing of federal coal in tracts that permit the mining of all economically extractable coal. The Mineral Leasing Act for Acquired Lands of 1947 extended provisions of the Mineral Leasing Act of 1920 to acquired National Forest System lands and required the consent of the Secretary of Agriculture prior to leasing. The Federal Coal Leasing Amendments Act (FCLAA) provides specific provisions for land use plans relating to coal. The Daniel Boone National Forest Land Resource Management Plan provides overall guidance for land management activities, including extraction of mineral resources. The Forest Plan provides for the consideration of lease proposals in the project area and directs that special stipulations be used to protect surface resources.

Since the passage of the FCLAA, the federal government has had the authority to lease minerals on federal lands. The act requires that the lands be included in a comprehensive land use plan, and the lease be compatible with the plan and meet the requirements of the National Environmental Policy Act of 1969 (NEPA).

Executive Order 13212, May 18, 2001 is intended to improve the internal management of the federal government in dealing with processing energy-related projects in a timely manner to aid the flow of domestic mineral production. The Forest Plan, as noted previously, identifies standards and guidelines, some of which are applicable to mineral activities. The Daniel Boone National Forest is

presently preparing a revision to the Forest Plan that will be accompanied by its own EIS. However, 42 United States Code (U.S.C.) section 885 does not permit the Secretary of Agriculture to delay processing of lease applications pending the completion of the revised Forest Plan. The current Forest Plan guides management of this national forest until the revised plan is completed and the administrative appeal process has ended. The Forest Service is publishing this Notice Of Intent pursuant to the Council on Environmental Quality implementing regulations of the National Environmental Policy Act at 40 CFR 1501.7.

**FOR FURTHER INFORMATION CONTACT:** Corey Miller is the Interdisciplinary Team Leader for this proposed action. He can be reached by U.S. mail at the Daniel Boone National Forest, 1700 Bypass Road, Winchester, KY 40391; by phone at (859) 745–3149; or by e-mail at [cmiller09@fs.fed.us](mailto:cmiller09@fs.fed.us).

**Lead and Cooperating Agencies:** The U.S. Department of the Agriculture Forest Service, Daniel Boone National Forest is the lead agency. There will be two cooperating agencies associated with this project—U.S. Department of Interior (USDI) Bureau of Land Management (BLM), Jackson Field Office, Jackson, MS and the USDI Office of Surface Mining (OSM), Lexington, KY.

**Responsible Officials:** The Forest Supervisor is the responsible official from the Forest Service for this project. The Field Manager—Jackson Field Office is the responsible official from the BLM for this project. The Field Office Director—Lexington, Kentucky is the responsible OSM official for this project.

**Decision to be Made:** The responsible official for the Daniel Boone National Forest will determine if the leasing of federal coal tracts underlying these National Forest System lands will occur after the EIS is prepared and what stipulations should be applied if a lease or leases are issued.

The Bureau of Land Management has been the responsibility to address coal lease applications (coal lease sales) on federal mineral reserves. In consultation with the USFS, the responsible official for the BLM will decide whether or not to offer the tracts for competitive

leasing, and under what terms, conditions, and stipulations.

If leased, the Office of Surface Mining will be responsible for providing recommendations to the Secretary of the Interior regarding approval, disapproval, or conditional approval of the mine plan, with input from the BLM.

The Office of Surface Mining, with input from the U.S. Forest Service, will also be responsible for providing recommendations to the Secretary of the Interior concerning the issuance of findings as to whether or not the proposed mining areas contain significant recreational, timber, economic or other values that may be incompatible with the proposed mining activities.

#### Purpose and Need for the Proposal

The purpose and need for the LUA/EIS is to determine if Federal coal will be leased in response to the lease application submitted for this federal coal. Private coal leases, permitted by the state, surround the proposed federal coal lease tracts. The leasing of this coal would allow for the development of the private and federal coal resources in an economic and efficient manner and would maximize the recovery of the coal.

**Scoping Process:** Scoping is the process used to determine the scope of issues to be addressed and for identifying the significant issues related to this project. Public involvement is an integral component of scoping. The public has been contacted in several different ways, provided information about this project, and given an opportunity to provide input. Information has been sent to a mailing list of individuals, groups, and agencies that are known to have an interest in this project or have previously expressed an interest in projects of this nature or general activities in the project area.

In addition to the publication of this Notice of Intent, legal notices have been published in the Lexington (KY) Herald-Leader and the Manchester (KY) Times.

A Public scoping open house meeting was held at the Leslie County Extension Office at 22045 Main Street in Hyden, KY on February 24, 2003 from 6 p.m. to 9 p.m.

Additional hearings pursuant to Title 43 Code of Federal Regulations (CFR) Section 1610.2 and 43 CFR 3425.4, will be announced through the **Federal Register**, local news media and Web sites at least 15 days prior to the event.

**Preliminary Issues:** Preliminary issues of concern include subsidence, and changes in the local hydrologic regime and water quality. The potential for

surface and ground water resource impacts will be studied in the EIS.

**Preliminary Alternatives:** The Proposed Action is to lease the Federal tracts for development and mining. The No Action Alternative is to not lease the Federal tracts.

**Permits or Licenses Required:** Should a Federal coal lease be issued, a permit is required from the State Department Of Surface Mining Reclamation and Enforcement prior to any development of the coal resources.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. Firstly, reviewers of the draft EIS must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and concerns (*Vermont Yankee Nuclear Power Corp. v. NRDC*, 435 U.S. 519, 553 (1978)). Also, environmental objections that could be raised at the draft EIS stage, but are not raised until after completion of the final EIS, may be waived or dismissed by the courts (*City of Angoon v. Hodel*, 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc. v. Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980)). Because of these court rulings, it is very important that those interested in this project participate by the close of the comment period, for the draft EIS so that substantive comments are made available to the Forest Service at a time when the comments can be meaningfully considered and responded to in the final EIS.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft EIS should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft EIS. Comments may also address the adequacy of the draft EIS or the merits of the alternatives formulated and discussed in the draft EIS. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

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Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

After the comment period ends on the DEIS, the comments will be analyzed, considered, and responded to by the Forest Service in preparing the FEIS. The FEIS is scheduled to be completed in November 2003. The responsible official will consider the comments, responses, environmental consequences discussed in the FEIS, and applicable laws, regulations, and policies in making a decision regarding this proposed action.

The responsible official will document the decision and reasons for the decision in a Record of Decision. That decision will be subject to appeal in accordance with 36 CFR Part 215.

**Benjamin T. Worthington,**

*Forest Supervisor, Daniel Boone National Forest.*

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## DEPARTMENT OF AGRICULTURE

### Forest Service

**Revised Land and Resource Management Plans for the Huron-Manistee National Forests (Alcona, Crawford, Iosco, Lake, Manistee, Mason, Mecosta, Montcalm, Muskegon, Newaygo, Oceana, Ogemaw, Oscoda and Wexford Counties, MI); the Hiawatha National Forest (Alger, Cheboygan, Chippewa, Delta, Luce, Mackinac, Marquette and Schoolcraft Counties, MI); and the Ottawa National Forest (Baraga, Gogebic, Houghton, Iron, Marquette and Ontonagon Counties, MI)**

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of Intent to prepare Environmental Impact Statements.

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**SUMMARY:** The USDA Forest Service intends to prepare three separate and individual Environmental Impact Statement (EIS) documents for revising the Huron-Manistee, Hiawatha and Ottawa National Forest Land and Resource Management Plans (Forest Plan) pursuant to 16 U.S.C. 1604(f) (5) and USDA Forest Service National Forest System Land and Resource Management Planning regulations. The National Forests in Michigan are concurrently starting the revision process for each of the three National Forests. The Revised Forest Plans for each Forest will supersede the existing Forest Plans, which were approved in