

Data Submitted (UTC 11): 1/25/2024 5:00:00 AM

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Comments: The Region 6 office of the U.S. Environmental Protection Agency (EPA) has reviewed the U.S. Forest Service (USFS) notice of intent to prepare and Environmental Impact Statement (EIS) for the Heavener Coal Leasing Project located in Scott and Sebastian Counties, Arkansas. The USFS is preparing the EIS as the lead federal agency with support from federal cooperating agencies, the U.S. Department of Interior (DOI), Bureau of Land Management (BLM), and Office of Surface Mining Reclamation and Enforcement (OSMRE). The purpose of the EIS analysis is to respond to a federal coal Lease by Application (LBA) submitted to the BLM from the Emera Corporation, on behalf of Ouro Mining Inc. The application seeks approval to access and recover federal metallurgical coal resources from approximately 3,077 acres that underly lands on the Ouachita National Forest (ONF) in the vicinity of Bates, Arkansas. To assist the USFS in the preparation of the EIS, we have identified the following areas for your attention:

Statement of Purpose and Need

We recommend the EIS clearly identify the underlying purpose and need to which the USFS is responding in proposing the alternatives. The purpose of the proposed action is typically the specific objectives of the activity, while the need for the proposed action may be to eliminate a broader underlying problem or take advantage of an opportunity.

Alternatives Analysis

The National Environmental Policy Act (NEPA) requires evaluation of reasonable alternatives, including those that may not be within the jurisdiction of the lead agency. A robust range of alternatives will include options for avoiding significant environmental impacts. We recommend the analysis provide a clear discussion of the reasons for the elimination of alternatives which are not evaluated in detail.

* The environmental impacts of the proposal and alternatives should be presented in comparative form, thus sharply defining the issues and providing a clear basis for choice among options by the decision maker and the public. The potential environmental impacts of each alternative should be quantified to the greatest extent possible (e.g., acres of wetlands impacted, tons per year of emissions produced).

Climate Change Impacts

Climate change adaptation and resilience

Considering ongoing and projected regional and local climate change, EPA recommends that USFS ensures consideration of robust climate resilience and adaption planning in the design of the proposed mining project to protect the infrastructure investment from the effects of climate change. The long-lived nature of mining infrastructure makes consideration of the ongoing and projected impacts of climate change even more important. It is not sufficient to ensure resilience of the project to risks under current climate conditions. Considering potential climate change impacts helps ensure that investments made today continue to function and provide benefits, even in the future under different climate change scenarios.

EPA recommends that USFS specifically discuss how future climate change may alter the frequency and intensity of climate risks such as flooding and extreme weather events, or bring about new climate risks. EPA also recommends USFS discuss how climate resiliency measures have been considered in the design of the proposed project to address these climate risks. This, and consideration of any relevant state or local adaptation plans, would enable consideration of ongoing and projected regional and local climate impacts. Consideration of these impacts could help avoid siting infrastructure investments in vulnerable locations, as well as unintended impacts on local communities.

When carrying out these climate vulnerability assessments, EPA recommends that USFS uses climate projections tailored to the project area rather than general climate projections for the whole country or state, such as by citing literature reviews specific to the project location or carrying out local flood modeling that integrates climate change projections.

Direct and Indirect Emissions

EPA expects the EIS to quantify construction and operational Greenhouse Gas (GHG) emissions in Carbon Dioxide equivalents (CO₂e), as well as each individual GHG (methane, nitrous oxide, etc.) emitted. Also, EPA recommends that the EIS quantify all downstream GHG emissions associated with the proposed action, as supported by CEQ's final Phase I rulemaking relating to NEPA Implementing Regulations Revisions¹. Federal agencies have a legal obligation to consider direct and indirect impacts associated with a project including upstream and downstream emissions caused by production, processing, transportation, and consumption of the project's resources.

Downstream GHG emissions are clearly reasonably foreseeable indirect impacts for coal mining projects. Whether downstream GHG emissions occur within the United States or outside of the United States is not relevant in assessing their climate impacts, given that GHGs have impacts that are global in scale.

¹ See CEQ NEPA Phase 1 Final Rule: <https://www.regulations.gov/document/CEQ-2021-0002-39428>

GHG Significance

EPA does not recommend expressing project-level GHG emissions as a percentage of national or state GHG emissions. A comparison of project-level emissions to national and state emissions diminishes the significance of project-scale GHG emissions and associated project-specific contributions to overall GHG emissions. Instead, we recommend USFS includes a discussion of whether these increases are consistent with the State climate plan as proposed and in conjunction with the cumulative impacts of other GHG emissions sources in the State. Additionally, EPA recommends the EIS discusses whether the estimated GHG emissions from the coal mining project are consistent with taking action to achieve science based national GHG reduction targets and any relevant state or local goals.

Social Cost of GHG's

EPA recommends the EIS provide an estimate of the social cost of greenhouse gases using the methods and values in the Federal Interagency Working Group (IWG) current draft guidance. This calculation is a useful parameter for disclosing GHG impacts and benefits of mitigation and for comparison across alternatives. In addition to direct emissions sources, we recommend that the social cost of greenhouse gases be calculated for the indirect emissions as well. We also recommend that the full set of assumptions used in this calculation be provided.

Stranded assets and carbon lock-in

EPA believes it is important for the EIS to consider and address the potential for mining projects to lock in coal extraction and combustion at the expense of substitute energy sources with lower social costs, and whether the project could result in stranded assets due to market factors and other policies that reduce demand for coal in the new project's intended market. The cost of electricity from new solar and wind power is already lower than traditional generation in some markets, and rapid cost-reducing technological change will continue as the world adopts more renewable energy. The determination of need and no-action alternative should consider how the projected continuation of these trends and increased penetration of alternative energy sources due to current policies will affect coal demand.

GHG Mitigation

EPA recommends that the EIS discuss all reasonable and practical mitigative measures that avoid, reduce, or minimize emissions associated with the project. The USFS could consider mitigation options applicable to the construction, operation and purpose of the mine to include, but not limited to, best practices that reduce emissions during construction, and reduction of emissions during life cycle operations. Particular attention should be paid to explaining the quality of the proposed mitigation - including its permanence, verifiability, and enforceability.

Environmental Justice

- * EPA recommends USFS identify low-income and minority populations near the geographic scope that may be impacted by the project and subsequent upscaling to a 24-hour, 7-day a week construction operation.
- * If such populations exist, the potential for disproportionate adverse impacts should be discussed along with the approaches used to foster public participation by these populations.
- * There should be a comprehensive communication strategy to inform communities with environmental justice concerns and encourage participation of these populations within at least one-mile radius of the proposed project boundaries.
- * EPA recommends USFS use available tools (i.e., EJ Screen, U.S. Census Bureau, area knowledge) to identify and screen these populations.

Impacts to Water Quality and Aquatic Resources

EPA recommends the EIS includes practicable alternatives for any discharges of dredged or fill material, measures taken to avoid and minimize impacts to aquatic habitats, and provide compensatory mitigation for all unavoidable impacts.

- * When discussing impacts to water resources please identify the nearest waterbody segments, any water bodies that are impaired, and the sources of impairment.
- * In the areas disturbed by underground mining operations, groundwater levels at an aquifer will gradually decrease while water is removed from the underground work area through pumping or other means. The EIS should include a plan for the discharge of water from the site.

NPDES discussion

EPA recommends the document discuss the project's consistency with applicable National Pollutant Discharge Elimination System (NPDES) construction run-off and stormwater permitting requirements. Requirements of a stormwater pollution prevention plan should be reflected as appropriate in the document.

Air Quality

EPA recommends the EIS describe and estimate air emissions from potential construction, maintenance and operation activities, as well as proposed mitigation measures to minimize those emissions. We recommend an evaluation of the following measures to reduce emissions of criteria air pollutants and hazardous air pollutants (air toxics):

- * Existing Conditions - We recommend the EIS provide a detailed discussion of ambient air conditions, National Ambient Air Quality Standards, and criteria pollutant nonattainment areas in the vicinity of the project.
- * Quantify Emissions - We recommend the EIS estimate emissions of criteria and hazardous air pollutants (air toxics) from the proposed project and discuss the timeframe for release of these emissions over the lifespan of the project and describe and estimate emissions from potential construction activities, as well as proposed mitigation measures to minimize these emissions. The EIS should also consider any expected air quality/visibility impacts to Class I Federal Areas identified in 40 CFR Part 81, Subpart D.
- * Specify Emission Sources - We recommend the EIS specify all emission sources by pollutant from mobile sources (on and off-road), stationary sources (including portable and temporary emission units), fugitive emission sources, area sources, and ground disturbance. This source specific information should be used to identify appropriate mitigation measures and areas in need of the greatest attention.
- * Construction Emissions Mitigation Plan - The EIS should include a draft Construction Emissions Mitigation Plan and ultimately adopt this plan in the Record of Decision. We recommend all applicable local, state (e.g., coordination of land-clearing activities with the state air quality agency to determine air quality conditions such as atmospheric inversions prior to performing open burning activities), or Federal requirements (e.g., certification of non-road engines as in compliance with the EPA Tier 4 regulations found at 40 CFR Parts 89 and 1039) be included in the Construction Emissions Mitigation Plan in order to reduce impacts associated with emissions of particulate matter and other toxics from any potential construction-related activities.

General

- * The EIS should discuss the capacity of the project area to accommodate the increase in traffic volumes and demand for services.
- * The EIS should discuss noise and lighting impacts from the proposed project, and identify any sources that may be impacted. If warranted, USFS should discuss potential mitigation methods to lessen impacts of noise and lighting to nearby populations.

We appreciate the opportunity to provide comments on the Heavener Coal Lease Project NOI. We look forward to reviewing the EIS related to this effort. The staff contact for the review is an be reached at 214-665-2133, or by e-mail at hayden.keith@epa.gov.