

U.S. DEPARTMENT OF THE INTERIOR
OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

FINDING OF NO SIGNIFICANT IMPACT

Narley Mine No. 3
Federal Lease ALES-55199
Permit P-3990
Mining Plan Decision Document

A. Introduction

In December 2007, Best Coal, Inc. filed a lease-by-application for federal coal lease ALES-55199 with the Bureau of Land Management (BLM) Eastern States Office. That tract of federal coal would eventually comprise the eastern part of Narley Mine No. 3. The bid was unsuccessful, and BLM did not award the lease. The Alabama Surface Mining Commission (ASMC) issued Permit P-3990 to Best Coal, Inc. on December 19, 2017, in accordance with their state-federal cooperative agreement; this permit was conditioned on Best Coal obtaining a legal right of entry for the coal. Permit P-3990 covers 535 acres and includes mining portions of federal lease ALES-55199 as well as private coal. The private coal in Permit P-3990 has been mined. Mine-disturbed ground under permit has roads, impoundments, stockpiles, equipment storage areas, and diversion ditches. Without an awarded federal coal lease, state-permitted mining disturbance could not extend to the federal coal resource.

On November 29, 2018, BLM held competitive lease sale for 160.82 acres and 469,000 tons of recoverable high-volatile bituminous coal, and BLM accepted the high bid submitted by Best Coal, Inc. Leased federal coal in Permit P-3990 is in Section 24, Township 15 South, Range 4 West, in Jefferson County, Alabama. The lease area is approximately 160 acres, with a project boundary of approximately 228 acres. The entire surface of Permit P-3990 is privately-owned. Best Coal, Inc. leases private lands adjacent to the federal lease area and mines those lands under ASMC Permit P-3850 (Narley Mine). This mine is in the reclamation phase. Approval of the mining plan would allow the surface mining of federal coal from lease ALES-55199 using truck-and-shovel methods. BLM's 2019 Resource Recovery and Protection Plan estimated annual coal production at Narley Mine No. 3 from about 16,000 to 101,000 tons over its projected 6.25-year productive life.

In its most recent permitting action for Narley Mine No. 3, ASMC approved Revision R-3 on October 11, 2019. The original approved Permit P-3990 would have allowed mining the 160 acres of leased federal coal as a single unit, referred to as Increment 3. However, this area contains jurisdictional waters of the United States and any disturbance requires a new Clean Water Act Section 404 individual permit from the U.S. Army Corps of Engineers (USACE), which could take an additional 12 to 18 months to be issued. Revision R-3 alters the sequence of mining to avoid affecting any protected streams until the mine permittee has obtained a valid USACE permit. To accomplish this, Revision R-3 splits the land containing federal coal into two increments—Increment 3 and Increment 4. The revised Increment 3 could be mined without affecting any jurisdictional waters because those waters are now wholly contained in the adjoining Increment 4 to the west.

The ASMC's approval of Revision R-3 includes the condition that the permittee must obtain a valid USACE permit prior to conducting any mining activities in any federally regulated wetlands or other waters of the United States that occur within the boundary of Increment 4. Revision R-3 also transferred 16 acres of mined land from adjacent Narley Mine (Permit P-3850) to Narley Mine No. 3 for a total of 551 acres under Permit P-3990.

The August 2020 environmental assessment (EA) associated with this finding of no significant impact addresses possible effects of the proposed mining operations to the physical, biological, social, and economic environments of the mining plan area. The EA also considers cumulative impacts of the proposed mining operations when added to other past, present, and reasonably foreseeable future actions.

B. Statement of Environmental Significance of the Preferred Alternative

Under the Mineral Leasing Act of 1920, as amended, the Assistant Secretary for Land and Minerals Management (ASLM) must approve, approve with conditions, or disapprove the mining plan for federal coal lease ALES-55199. By 30 CFR Part 746, the Office of Surface Mining Reclamation and Enforcement (OSMRE) recommends approval of this mining plan (the proposed-action alternative).

The deciding official has determined that the proposed action would not have a significant impact on the quality of the human environment under Section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. § 4332(2)(C). Therefore, an environmental impact statement is not required.

C. Reason

This finding of no significant impact is based on the attached OSMRE August 2020 EA. This OSMRE 2020 EA incorporates by reference and summarizes relevant analyses from BLM's 2014 *Narley Mine No. 3 Coal Lease Resource Management Plan Amendment, Land Use Analysis, and Environmental Assessment* and 2018 supplement environmental assessment. For any resource areas where there was new or relevant additional information available, the OSMRE 2020 EA supplements or replaces BLM's analyses.

The deciding official evaluated the subject EA as of the date specified below and has determined that it adequately and accurately assesses the environmental impacts of the proposed action and provides sufficient evidence and analysis for this finding of no significant impact. OSMRE takes full responsibility for the accuracy, scope, and content of its 2020 EA.

1. Impacts that may be both beneficial and adverse.

Selection of the preferred alternative (the proposed action) to recommend the approval of the mining plan would result in impacts, as described in detail in the EA. The EA analyzed the potential impacts of the proposed mining operations to land use, soil resources, water resources, air quality (including greenhouse gases), biological resources (including threatened and endangered species), cultural and tribal resources,

visual resources, recreation resources, environmental justice, socioeconomics, and noise and transportation.

None of the environmental effects identified in the EA, whether they were beneficial or adverse, qualify as “significant” as defined by context and intensity considerations at 40 CFR § 1508.27. Furthermore, the proposed action is not likely to have a significant effect on the human environment.

2. The degree to which the proposed action affects public health or safety.

The proposed action is not expected to have a significant effect on public health or safety.

3. Unique characteristics of the geographic area such as proximity to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas.

The proposed action will not impact unique characteristics of the geographic area, including historic or cultural resources, park lands, wild and scenic rivers, wetlands, prime farmland or known ecologically critical areas because these resources are not known to exist within the project area.

4. The degree to which the effects on quality of the human environment are likely to be highly controversial.

Throughout the scoping process, which began with BLM’s leasing EA in 2014, public comments on this proposed action have been solicited several times. To date, two commenters have raised substantive issues with the proposed project. Appendix A—Part III of the EA addresses those issues. For this reason, the effects of the proposed action are unlikely to be highly controversial.

5. The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.

Implementing the proposed action does not pose uncertainties. The environmental review process has not identified any effects that may involve unique or unknown risks.

6. The 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 proposed action is neither expected to establish precedent for future actions with significant effects nor will it represent a decision in principle about future considerations. Future recommendations regarding mining-plan approval will be evaluated and considered on a case-by-case basis.

7. Whether the action is related to other actions with individually insignificant but cumulatively significant impacts.

Cumulative impacts of the proposed action were analyzed in section 4.13 of the EA, as well as in Appendix B, which presents an additional quantitative analysis of cumulative impacts to the water quality of Locust Fork and Trouble Creek. The scope of cumulative effects was examined within the 551-acre area of Permit P-3990 and within this area, cumulative effects on the physical and biological environment of the proposed action would be moderate because of past mining activities, surrounding land use patterns, and direct impacts of the proposed action. No additional significant cumulative impacts were identified.

8. The 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 may cause loss or destruction of significant scientific, cultural, or historical resources.

The 2012 Phase I Cultural Resources Assessment concluded that the proposed action would not impact any cultural resources listed in or eligible for listing in the National Register of Historic Places or cause loss or destruction of significant cultural or historical resources. The Alabama Historical Commission, in a letter signed by the deputy State Historic Preservation Office (SHPO) dated May 25, 2017, continued to concur with this finding.

9. The 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 of 1973.

The proposed action is not likely to adversely affect any of the 13 protected species that are known to occur in the project area watershed. U.S. Fish and Wildlife Service most recently concurred with this determination in a letter dated July 29, 2020.

10. Whether the action threatens a violation of Federal, State, or local law or requirements imposed for the protection of the environment.

The proposed action does not violate Federal, State, or local law or requirements imposed for the protection of the environment.

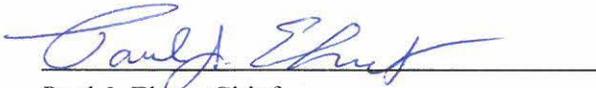
D. Mitigation Measures

The attached EA outlines measures taken to minimize impacts to potential habitat and ecological resources during the project lifespan.

Mitigation measures to minimize soil erosion and stream impacts include four elements: (1) recognition of a minimum 100-foot buffer zone between the project area and Trouble Creek, (2) adherence to an erosion control plan to maintain minimum water quality standards, (3) construction of 18.0 acres of permanent water impoundments to capture runoff from mine-affected ground, and (4) creation of postmining aquatic habitat that provides a year-round water source. Additionally, the eventual Section 404 permit that

the permittee will need to obtain from USACE in order to conduct mining activities in Increment 4 will include an associated USEPA-reviewed mitigation plan.

A bat habitat mitigation plan is not required for this project; however, ASMC permit P-3990 does require the permittee to conduct all tree removal activities between October 15 and March 31 and further requires a new acoustic presence/absence survey and concurrence with USFWS prior to any tree removal outside of this timeframe.



Paul J. Ehret, Chief
Program Support Division
Interior Regions 3, 4 and 6
Office of Surface Mining Reclamation and Enforcement

8/31/2020
Date

Attachment