DECISION NOTICE
and
FINDING OF NO SIGNIFICANT IMPACT
for the
Lands Available for Oil & Gas Leasing Environmental Assessment

United States Department of Agriculture
Forest Service
Southern Region, R-8
National Forests in Mississippi

Tippah, Benton, Marshall, Lafayette, Union, Pontotoc, Chickasaw, Yalobusha, Choctaw, Oktibbeha, Winston, Sharkey, Issaquena, Scott, Newton, Smith, Jasper, Jefferson, Copiah, Lincoln, Franklin, Adams, Wilkinson, Amite, Jones, Wayne, Greene, Pearl River, Forrest, Perry, George, Stone, Jackson, and Harrison Counties, Mississippi

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BACKGROUND AND EA AVAILABILITY

An interdisciplinary team (IDT) has reviewed the oil and gas resource conditions for the National Forests in Mississippi (NFsMS). As a result, an Environmental Assessment (EA) has been prepared which considered the Proposed Action and No Action, in detail. The Proposed Action was developed to address the purpose of and need for resource management actions. The Lands Available for Oil and Gas Leasing EA (incorporated by reference here) is available on the NFsMS website: www.fs.fed.us/r8/mississippi.

DECISION

After full consideration of the environmental analysis, public comments, and from recommendations from the IDT, I have decided to implement **Alternative 2 – Lands Available for Leasing Alternative**, including the associated design criteria as depicted in Chapter 1, Section 1.11 of the EA. I have determined that Alternative 2 best meets the purpose and need for the proposal by identifying National Forest System (NFS) lands that are administratively available for leasing. Implementing this decision implements the Federal oil and gas leasing program to help supply the nation with critical energy minerals and provide a source of revenue to local, state and Federal governments. Alternative 2 (Proposed Action) also responded to the significant issues identified through scoping (EA Appendix A). In summary, this decision authorizes the following:

To make all lands on the NFsMS, except for Congressionally designated Wilderness areas (Black Creek and Leaf) and the deferred Sandy Creek RARE II Further Study Area, available for Federal oil and gas leasing through the Bureau of Land Management (BLM). These lands, approximately 1.2 million acres, would be administratively available subject to 1) management direction in the NFsMS Forest Plan, 2) oil and gas lease stipulations, 3) the wide range of laws and regulations that require environmental protections for oil and gas exploration and development and 4) site-specific environmental analysis as detailed exploration proposals are made by lease holders.

Additonally, all administratively available lands will be available for lease by the BLM, subject to the stipulations identified in the analysis, the standard USDA stipulation, and the environmental requirements of the standard federal lease terms. (EA Appendix B)

DECISION RATIONALE

When compared to the other alternative considered in detail, the selected alternative best meets the overall purpose and need as discussed in Chapter 1 of the EA.

In addition, Alternative 2 was selected because the analysis documented in the EA concluded::

- Site productivity of soils will be maintained. (EA, Chapter 3, Section 3.3.2)
- All surface water will meet or exceed state water quality standards. (EA Section 3.3.3)
- Air quality will meet or exceed state ambient air standards. (EA, Chapter 3, Section 3.4)
- Guidance for protection of TES resources will be incorporated. (EA, Chapter 2, Section 2.4)
- There will be no change in acres classified in either the pine or hardwood forest type. (EA, Chapter 3, Section 3.6)
- The visual quality objective of the areas will remain the same. (EA, Chapter 3, Section 3.11)
- The recreation opportunities will remain the same. (EA, Chapter 3, Section 3.9)
- Potential future recreation developmental opportunities will not be precluded. (EA, Chapter 3, Section 3.9)
- Heritage resources will be protected. (EA, Chapter 3, Section 3.8)
- Potential impacts to climate change were considered. (EA, Chapter 3, Section 3.12)
- There are no negative effects to potential old growth. (EA, Chapter 3, Section 3.6)
- The best available science was used in this decision-making. (EA, Chapter 1, Section 1.8; EA, Chapter 5, References; EA, Appendix C, Selected Bibliographies; EA, Appendix D, Biological Evaluation, Section VII, References; EA, Appendix F, Response to Comments, References; EA, Appendix G, John Dykes, BLM, Bibliographies; EA, Appendix H, DOE-Shale Gas - A Primer, References; EA, Appendix I, NFsMS-Climate Change Trends and Strategies, References)

OTHER ALTERNATIVES CONSIDERED IN DETAIL

In addition to the selected alternative, I considered the "No Action" alternative. A comparison of the alternatives can be found in Chapter 2 of the EA.

<u>Alternative 1 (No Action)</u>: No proposed management actions would be implemented. This alternative is required by the National Environmental Policy Act (NEPA) and serves as the benchmark for other alternatives in order to show changes or effect on the environment. Alternative 1 does not address the project's purpose and need to meet the desired future conditions in the Forest Plan.

ALTERNATIVE CONSIDERED BUT ELIMINATED FROM FURTHER STUDY

An alternative considered but eliminated from detailed study would be the halting of oil and gas exploration and development on existing leases. Under this alternative, the Forest Service would not approve any surface use plan of operations for Applications for Permits to Drill (APDs) on existing leases on NFsMS, and the BLM would not approve any APDs on existing leases on NFsMS. For existing leases with no operations, this alternative would prevent lease operations; the Federal Government would be abrogating the lease. For existing leases with some oil and gas operations, this alternative would prevent new lease operations in all areas of the lease; the Federal Government would be abrogating key provisions of the lease. A subset of this alternative could also be to shut down existing operations.

Based on past experience, the environmental effects associated with existing leases are manageable. Existing oil and gas operations are part of the Congressionally-mandated multiple-use mission of the Forest Service. Maintaining the flow of domestic energy supplies of oil and gas is of National interest. For the reasons above, halting existing lease operations is not considered a reasonable alternative.

PUBLIC INVOLVEMENT

The IDT used legal notices (published in the *Clarion-Ledger* (paper of record)), mailings, internal contacts, and contact with other agencies (i.e., SHPO, USDI Fish and Wildlife Service (USFWS), etc.) to solicit comment and participation in the environmental analysis. Information on the Proposed Action and Public Invitation packages were mailed to, known interested parties, and other government agencies on January 30, 2007. The public was encouraged to submit scoping comments by March 5, 2007. Twenty-four public responses were received during the public scoping period (EA, Appendix B). In addition, the project proposal was published beginning in July 2007 in the Schedule of Proposed Actions on the National Forests in Mississippi website and has been published quarterly since that time. The National Forests in Mississippi website is available to the public for review and updates on status of proposed projects.

Comments received were reviewed and issues identified were added to the list of issues used to develop alternatives to the Proposed Action.

The 30-day comment period on the EA (ended April 26, 2010) was published in the *Clarion-Ledger* on March 26, 2010. Numerous individuals, groups, and agencies were notified that the EA was available for review and comment (EA, Chapter 4). Six public responses were received during the 30-day public comment period. Those comments and responses to those comments have been added to the EA (EA, Appendix F).

A common comment was received from several people concerning the use of hydraulic fracturing, a production enhancement technique, which has caused contamination to fresh water drinking aquifers in other areas. A response to these comments and other comments received are included as an appendix to the EA. (EA, Appendix F)

FINDING OF NO SIGNIFICANT IMPACT

To determine the significance of the selected alternative, I considered both the context and intensity of the activities. Significance of an action is to be considered in several contexts such as society as a whole, the affected region, affected interests, and the locality, depending on the setting of the proposed projects (40 CFR 1508.27(a)). The context of this action pertains only to the local area of

those project activities listed. The intensity of the activities refers to the severity of the impact. Based on the effects analyzed in the EA, I have determined that the selected alternative is not a major federal action significantly affecting the quality of the human environment. Therefore, the preparation of an environmental impact statement is not necessary. This determination is based upon the following factors found at 40 CFR 1508.27(b):

INTENSITY

1. Both beneficial and adverse effects have been considered. Impacts associated with the project are discussed in Chapter 3 of the EA. These impacts are based on the Reasonably Foreseeable Development Scenario (RFD) developed by BLM.

2. The selected alternative will not result in significant effects on public health and safety, and implementation will be in accordance with project design criteria (EA, Chapter 2) (40 CFR1508.27(b) (2)).

3. The unique characteristics of the geographic area, including historical or cultural resources, parklands, prime farmlands, wetlands, wild and scenic rivers or ecologically critical areas will not be affected (EA Chapter 3) (40CFR1508.27(b) (3).

4. Based on public involvement, the effects on the quality of the human environment are not likely to be highly controversial (40 CFR 1508.27(b) (4)). This refers to controversy over the effects as presented in the EA rather than the existence of opposition to the project itself. Six people responded with comments.

5. The actions do not involve highly uncertain, unique, or unknown human environmental risk. (EA, Chapter 3) (40 CFR 1508.27(b) (5)).

6. These actions do not set a precedent for future actions with significant effects or represent a decision in principle about a future consideration. (40 CFR 1508.27(b) (6)).

7. Possible cumulative effects of the selected action have been analyzed with consideration for past, current, and reasonably foreseeable future activities on adjacent private and public lands. Cumulative impacts over space and time have been identified in the EA and are not significant. (Chapter 3)

8. Historic places or scientific, cultural, or historic resources that may qualify for the National Register of Historic Places will not be adversely affected by this action (EA Chapter 3). When site–specific proposals to explore are received, site–specific environmental analysis will evaluate potential effects. If heritage resource sites are discovered during future surveys or implementation operations, activities in the general area of the discovery will be stopped until the site can be evaluated for significance by an archaeologist.

9. This action will not adversely affect any endangered or threatened species or critical habitat designated under the Endangered Species Act of 1973 (EA, Chapter 3) (Biological Evaluation and USDI FWS concurrence dated July 6, 2010 (Appendix D).

10. The action does not threaten a violation of federal, state or local law or requirements imposed for the protection of the environment. (Chapter 3)

FINDINGS REQUIRED BY NFMA AND OTHER LAWS

1. This project is consistent with requirements of the National Forest Management Act (NFMA) (16 U.S.C. 1604). Based on the EA, which discloses that the actions have been planned and will be implemented consistent with the Forest Plan, I have determined that actions included in this decision are therefore consistent with the Forest Plan for the NFsMS (as amended).

2. This project is consistent with the National Historic Preservation Act and the Archeological Resources Protection Act. In consultation with the Mississippi State Historic Preservation Officer (SHPO) and interested Tribal Historic Preservation Officers (THPO), the Forest Service program for compliance with the National Historic Preservation Act includes locating, inventorying and nominating all cultural sites that may be directly or indirectly affected by scheduled activities. A qualified archeologist has reviewed this program. The cultural resource clearance has been completed with concurrence from the Mississippi State Historic Preservation Officer.

3. This project is consistent with the Endangered Species Act. In accordance with FSM 2672.4, Biological Evaluations were prepared to evaluate the effects of the planned activities of PETS species. The USDI Fish and Wildlife Service (USFWS) concurred with the determinations of the PETS species.

As required by 36 CFR 219.35, as published in the Federal Register on December 18, 2009, FR Volume 74, No. 242, pages 67059-67075, I have considered the best available science in making this decision. The project record demonstrates a thorough review of relevant scientific information, consideration of responsible opposing views, and, where appropriate, the acknowledgment of incomplete or unavailable information, scientific uncertainty, and risk. Best available science considerations are evident in the Lands Available for Oil & Gas Leasing EA. Scientific considerations are evident throughout the environmental effects analysis documented in Chapter 3 of the EA.

APPEAL OPPORTUNITIES, CONTACT, AND IMPLEMENTATION

Notice of this decision will be published in the *Clarion-Ledger*, Jackson, Mississippi.

This decision is subject to administrative appeal pursuit to 36 CFR 215 (decisions for projects and activities implementing land and resource management plans documented in a Decision Notice). A written appeal, including any attachments, must be postmarked or received within 45 days after the date that the legal notice announcing this decision in published in the **Clarion-Ledger** (Jackson, MS), the paper of record. Any appeals being filed must meet the content requirements of 36 CFR 215.14.

Appeals must be filed with the Regional Forester for the Southern Region at:

USDA Forest Service
Attn: Appeals Deciding Officer
1720 Peachtree Rd., NW, Suite 811N
Atlanta, Georgia 30309-9102

Appeals may also be faxed to (404) 347-5401, or be mailed electronically in a common digital format to *appeals-southern-regional-office@fs.fed.us.* Hand-delivered appeals must be received within normal business hours of 7:30 a. m. to 4:00 p. m., excluding delivery on federal holidays when the office is closed.

If no appeal is received, implementation of this decision may occur on, but not before, five business days from the close of the appealfiling period. If an appeal is received, implementation may not occur for 15 business days following the date of appeal disposition (36 CFR 215.9)

For further information regarding the planned actions, contact Jim Michael, Forest Geologist, (601) 965-1667. For additional information concerning the Forest Service appeals process, contact Robert Bradford, Environmental Coordinator, (601) 965-1605.

John Richard Fair (for)

Margrett Boley
Forest Supervisor

8/6/2010
Date

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