
File Code: 1570; 2800
18-02-00-0017-218B
Date: DEC 06 2017

Jessica Wentz
Sabin Center for Climate Change Law
Columbia Law School
435 West 116th Street
New York, NY 10027

Dear Ms. Wentz:

This letter is in response to your objection to the Supplemental Final Environmental Impact Statement (SFEIS) and draft Record of Decision (ROD) for the Federal Coal Lease Modifications COC-1362 & COC 67232 on the Grand Mesa, Uncompahgre and Gunnison National Forests. The legal notice for this project was published in the Daily Sentinel on September 8, 2017, which initiated the 45-day objection period. Your objection was timely and was reviewed pursuant to Title 36 of the Code of Federal Regulations, Part 218 (36 CFR 218) Subparts A and B.

On November 29, 2017, an objection resolution meeting was held via conference call between multiple objectors, Forest Supervisor Scott Armentrout, Forest Service support staff, and myself pursuant to 36 CFR 218.11(a). The purpose of the meeting was to discuss a potential resolution of objections and to clarify objection issues. Although we did not reach a resolution, I appreciate the discussion we had at the meeting.

I have read the objections, reviewed the SFEIS and the supporting documentation, and have considered public comments relative to this project. This document contains my written response to your objection issues that were raised during the designated opportunity to comment as required by 36 CFR 218.11(b).

Project Description and draft ROD

An SFEIS for Federal Coal Lease Modifications COC-1362 & COC-67232 has been prepared by the Grand Mesa, Uncompahgre and Gunnison National Forests in cooperation with the Bureau of Land Management (BLM), Western Region of the Office of Surface Mining, Reclamation and Enforcement and Colorado Division of Reclamation, Mining, and Safety. The Forest Service, as surface managing agency, is responsible for deciding whether to consent to the BLM's leasing decision and if consent is provided, prescribing stipulations for protection of surface resources.

The draft ROD selected Alternative 3, which authorizes the following:

- Consent to the BLM modifying existing Federal Coal Lease COC-1362 by adding 800 acres according to the Federal Coal Leasing Amendments Act of 1976
- Consent to the BLM modifying existing Federal Coal Lease COC-67232 by adding 920 acres according to the Federal Coal Leasing Amendments Act of 1976
- Specific lease stipulations as prescribed for non-mineral surface resources



Objection Responses

Specific to your objection, I conducted my review of the record, SFEIS, response to comments, and draft ROD. Based on my review, I conclude the following:

Objection Topic: The Forest Service has dramatically revised its emissions estimates in the SFEIS without any explanation of the change or opportunity for the public to comment on its analysis.

Response: The correction of the error in the emissions estimate that was discussed in the comments and corrected in the final is not a change that requires more public comment. The correction of the computational error revealed reduced environmental effects and did not give rise to significantly new circumstances or information that would require a supplement.

Suggested Remedy: Before adopting a final decision on this matter, the Forest Service should publish a draft supplemental analysis with the revised emissions estimates and reopen the public comment period. The revised analysis should contain a clear quantitative explanation of how Forest Service estimated emissions (e.g., Forest Service should note the calculations and conversion factors that it used).

Objection Topic: The Forest Service erroneously dismissed the significance of the direct and indirect Green House Gases (GHGs) as a result of Lease Modifications COC-1362 and COC-67232.

Response: Direct, indirect, and cumulative effects were considered, and quantified where appropriate, in the SFEIS and project record. Methane and carbon dioxide are neither regulated under the Clean Air Act nor has a significance level been established. This is important because there is no way to determine what is considered an adverse effect or significance under the law. Due to the complexities involved with overall coal supplies, coal spot market responses to current demand, possible fuel substitutions, and other governmental regulations and authorities, it is not possible to translate these GHG reductions into incremental climate change impact reductions. I find that the analysis sufficiently meets National Environmental Policy Act's (NEPA's) hard look doctrine with respect to the Forest Service decision regarding consent to lease modifications.

Suggested Remedy: The Forest Service should prepare a revised analysis of combustion emissions in which it discusses questions pertaining to substitution and energy markets in a coherent and transparent way. At minimum, the Forest Service should discuss, in qualitative terms, how increased coal supply can affect coal prices and demand for coal relative to other energy sources. The Forest Service could also perform an economic analysis using the National Energy Modelling System (NEMS), as it did in the Colorado Roadless Rule EIS.

Objection Topic: The Forest Service arbitrarily decided not to monetize the cost of Green House Gas (GHG) emissions while monetizing other benefits.

Response: To meet the purpose and need, along with the scope, scale and context of this project, the Forest Service determined a regional economic impact analysis to be an appropriate quantitative tool for the SFEIS. Economic impacts, or distributional effects, include consequences to jobs and labor income within the economic study area. Economic impact analyses describe effects that agency activities may have on economic conditions, and it is the basis for evaluating economic impacts by the Forest Service in the impact area (Forest Service Manual Chapter 1970). The results of the regional economic impact analysis represent effects to the local economy.

A cost-benefit analysis is an approach used to determine economic efficiency by focusing on changes in social welfare by comparing whether the monetary benefits gained by people from an action/policy are sufficient in order to compensate those made worse off and still achieve net benefits (Watson et al. 2007, EPA 2010, Kotchen 2011). A cost-benefit analysis requires the identification and valuation of all the costs and benefits associated with an action/policy in a common monetary measure and is often expressed either as net benefits or as a cost-benefit ratio, which indicates the value of benefits obtained from each dollar of costs (Field 2008, EPA 2010).

The results from a regional economic impact analysis are not considered benefits or costs (Watson, Wilson, Thilmany, and Winter 2007). Cost-benefit analyses and regional economic impact analyses are very different methods that are focused on quantifying/monetizing different measures (social welfare and economic activity respectively) and are based upon differing assumptions and terminology and are not interchangeable.

As such, the SFEIS did not attempt to monetize the economic benefits which would be included in the benefit side of a cost-benefit analysis associated with the lease modifications. Notably it did not include the total economic benefits of coal production, which may include the domestic or international benefits of coal production and electricity generation, expressed in terms of annual cost savings of domestic power generation. This type of information would be needed for a benefit-cost analysis, alongside the social cost of carbon estimates or other monetized costs, in order to be meaningful to the public and the decision maker. The absence of any economic benefit information limits the usefulness of the social cost of carbon analysis as the information would not be placed in an appropriate context.

The Forest Service recognizes that when data on incremental changes in domestic and global Green House Gases is available (and other comparable monetized costs and benefits are also estimated), the social cost of carbon can serve as a useful tool to estimate global climate change impacts in monetary terms. However, that was not the case for this project level effort. Quantifying economic benefits (e.g., annual cost savings of domestic power generation) and costs (e.g., Social Cost of Carbon (SCC) protocol)

associated with different alternatives was not feasible in this SFEIS in the absence of an analysis of domestic and international energy and economic systems as a whole. In particular, if the Forest Service had estimated the SCC based on total GHGs emission reported in Section 3.4, it would have been a failed analysis. Not only would it have been an unbalanced analysis by presenting only costs, but it would also have been substantially flawed by using total GHGs emissions associated with the project rather than the incremental domestic and global change in GHGs between the no action and action alternatives. Therefore, the Forest Service determined the best available scientific information available for the SFEIS were quantified GHG emissions as the common metric used to compare across alternatives and then qualitatively discussed potential cumulative climate impacts at the local, state/regional, and global scales.

Suggested Remedy: The Forest Service should revise the SFEIS with estimates of the social costs of direct and GHG emissions that will be generated as a result of the lease modifications and should provide the public with an opportunity to comment on the significance of these costs. For an example of what such an analysis entails, the Forest Service can refer to the work it performed in the Colorado Roadless Rule EIS. The Forest Service should also reevaluate the merits of the proposal on the basis of these costs and revisit its decision to issue the lease modifications.

Conclusion

Based on the review of your objection I find the draft decision is consistent with all policy, law, direction, and supporting evidence. The record contains site-specific documentation regarding resource conditions, and the Responsible Official's draft decision document is based on the record and reflects a reasonable conclusion. Therefore your suggested remedies are denied. Responsible Official, Forest Supervisor Scott Armentrout, may proceed with the issuance of the ROD. This written response is the final administrative review by the Forest Service or the Department of Agriculture [36 CFR 218.11(b)(2)].

Sincerely,



MARIBETH GUSTAFSON
Deputy Regional Forester

cc: Scott Armentrout, Levi Broyles, Niccole Mortenson, Kelly Honors