



United States Department of the Interior
Office of Hearings and Appeals
Interior Board of Land Appeals
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August 25, 2016

IBLA 2016-80)	COC-54608
)	
WILDEARTH GUARDIANS)	Coal Lease
)	
)	Motion to Supplement
)	Administrative Record Denied;
)	Set Aside and Remanded

ORDER

Appellant has appealed from a December 31, 2015, decision record (DR) issued by the field manager for the Little Snake Field Office (Colorado) Bureau of Land Management (BLM). The field manager approved Twentymile Coal LLC's application to modify Federal coal lease COC-54608 to include 310 acres of unleased contiguous Federal coal lands.

BLM's Motion for Leave to Submit Ratification

BLM has filed with the Board a Motion for Leave to Submit Ratification (Motion). BLM moves the Board to accept documentation into the administrative record, which shows that on May 25, 2016 -- after WildEarth Guardians appealed the field manager's DR -- BLM Colorado's Deputy State Director for Energy, Lands, and Minerals ratified the DR. BLM asks to supplement the administrative record with the ratification document in response to *WildEarth Guardians*.¹ In that case, appellant appealed from a BLM Colorado field manager's decision to approve a coal lease. We found that the field manager was not authorized to approve the coal lease, and therefore we set aside the DR and remanded the matter back to BLM.

BLM considers it appropriate to submit the ratification for acceptance into the administrative record to alleviate the need to address any issues that may be raised

¹ 187 IBLA 349 (2016).

by *WildEarth Guardians*.² BLM states that record supplementation is appropriate since the ratification “in no way changes the substance of the decision on appeal.”³

BLM Did Not Have Jurisdiction to Ratify the DR

BLM’s ratification document purports to ratify a decision that was on appeal to the Board and therefore over which BLM had lost jurisdiction.⁴ We reject BLM’s argument that it could ratify a decision that was no longer before it. The validity of a decision goes directly to the “substance of the decision on appeal.” Because BLM did not have jurisdiction to ratify or otherwise modify a decision on appeal, we find that the ratification document has no legal effect, and we deny BLM’s Motion.

The DR is Set Aside and Remanded

BLM has not demonstrated that the field manager possessed the requisite authority to authorize coal lease modifications.⁵ If a decision is not issued by an employee with delegated authority to issue it, then the action does not bind the Department and is not properly considered a decision of the BLM.⁶ Because the DR is not a BLM decision, it cannot be appealed to the Board.⁷

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior,⁸ we set aside and remand BLM’s DR.


Eileen Jones
Chief Administrative Judge

² Motion at 2.

³ *See id.*

⁴ *See Chipmunk Grazing Association, Inc.*, 188 IBLA 35, 43 (2016); *McMurry Oil Co.*, 153 IBLA 391, 393 (2000).


⁵ DR at unpaginated 1 (“It is my decision to . . . authoriz[e] the modification of coal lease COC54608 by adding 310 acres of federal coal resources.”); *see WildEarth Guardians*, 187 IBLA at 353.

⁶ *WildEarth Guardians*, 187 IBLA at 353; *Gateway Coal Co. v. Office of Surface Mining Reclamation and Enforcement*, 84 IBLA 371, 374-75 (1985).

⁷ 43 C.F.R. §§ 4.1(b)(2), 4.410(a).

⁸ 43 C.F.R. § 4.1.

I concur:



Silvia M. Riechel
Administrative Judge

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