

**U.S. Department of the Interior
Bureau of Land Management
Uncompahgre Field Office
2465 S. Townsend Ave.
Montrose, CO 81401**

Finding of No Significant Impact (FONSI)

DOI-BLM-CO-150-2008-0053 EA

CASEFILE/PROJECT NUMBER: COC70615

LOCATION:

T13S, R90W, 6th PM.
Sec. 3: Portion of W $\frac{1}{2}$;
Sec. 4: N $\frac{1}{2}$ and Portion of N $\frac{1}{2}$ S $\frac{1}{2}$;
Sec. 5: Portion of E $\frac{1}{2}$.

PROJECT NAME: Elk Creek East Tract Coal Lease

APPLICANT: Oxbow Mining, LLC

BACKGROUND

Oxbow Mining, LLC (OMLLC) has submitted a Lease-by-Application (LBA) to the Bureau of Land Management (BLM) seeking to lease BLM mineral estate located adjacent to their currently operating coal mine (the Elk Creek Mine). Approval of this application would allow OMLLC to expand development of its underground coal mining operations into the Elk Creek East Tract (ECET) and continue producing coal at or near current levels for approximately one additional year.

The Bureau of Land Management (BLM) has conducted an environmental assessment (DOI-BLM-CO-150-2008-53 EA) for a proposed action to address approval of the LBA for the ECET in the North Fork Valley area of Gunnison County. A No Action alternative and the Proposed Action alternative were analyzed in the EA. The EA is available at the Uncompahgre Field Office and is incorporated by reference for this Finding of No Significant Effect (FONSI). The ECET would provide a logical extension of OMLLC's D-Seam workings within the current Elk Creek Mine and would allow the mine to continue producing coal at the current rate instead of ceasing production as recoverable leased coal reserves are exhausted. The underlying need for the proposal would be met while current surface land uses are maintained.

FINDING OF NO SIGNIFICANT IMPACT

Based upon a review of the EA and the supporting documents, I have determined that the project is not a major federal action and will not significantly affect the quality of the human environment, individually or cumulatively with other actions in the general area. No environmental effects meet the definition of significance in context or intensity as defined in 40 CFR 1508.27 and the project is consistent with current land management planning for the project area under the Uncompahgre Basin Resource Management Plan (BLM 1988).

RATIONALE

This FONSI is based on my consideration of the Council on Environmental Quality's (CEQ) criteria for significance (40 CFR 1508.27), with regard to the context and the intensity of impacts described in the EA.

CONTEXT

This project is a site-specific action directly involving underground mining of federal coal reserves in a 768 acre lease tract and surface impact to 5.63 acres of BLM land. Direct surface impact will be limited to nine temporary drill pad locations for up to 15 gob vent boreholes (GVBs) and associated light use roads. Most effects will be short-term. This project is a small element of more than a century of underground mining in the North Fork Valley that does not have international, national, or regional importance. The affected surface area for this project is limited to a small portion of the 786 acre lease tract. The socioeconomic effect of approximately one additional year of continued coal production at or near current levels is limited to the North Fork Valley.

Short-term effects will occur as a result of traffic to the drill pads, brief drilling activity, and reclamation of the drill pads. Drilling activity at a given drill pad will last from several days to a few weeks, depending on the number of GVBs to be drilled at the site. After drilling, each pad would be reclaimed to a minimum operating size for the GVBs. After underground mining activities are complete, the remaining portions of the pads would be reclaimed. Disturbance to recreationists or interruptions to access for recreation would be brief. Maximum short-term surface disturbance including temporary light-use access roads would be less than one percent of the surface area of the lease areas. The land disturbance associated with this project would not change the existing character of the local landscape. Nevertheless, the EA lists guidelines for drilling, construction, operation, and reclamation to minimize the scenic and aesthetic impacts of the GVB locations.

Affected interests for this project may include special use and grazing permittees, and people who use the project for recreation. Effects would be short-term and minor. No

short or long term significant impacts on affected interests are expected in the regional context.

INTENSITY

The following discussion is organized around the Ten Significance Criteria listed in 40 CFR 1508.27 and incorporated into BLM's Critical Elements of the Human Environment list, supplemental Instruction Memoranda, and regulations. The following have been considered in evaluating intensity for this proposal:

1) Impacts that may be both beneficial and adverse.

Beneficial and adverse effects of the Proposed Action alternative were described in the EA. Mitigating measures to reduce potential short-term impacts to soils, distribution of invasive non-native species, sensitive plants, migratory birds, riparian zone and wetlands, and paleontology were incorporated in the design of the Proposed Action. The project would make a minor contribution to small amounts of airborne particulate matter during drilling and release of methane and other greenhouse gases (GHGs) during the mining process and subsequent fracturing of the overburden. Benefits of the project would be continuation of gainful employment in the coal mine, and contribution to the supply of coal to meet the nation's energy demands. None of the environmental effects discussed in the EA are considered significant.

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

The Proposed Action alternative is designed to control the limited public traffic that may occur in the project area during surface activities. No public traffic is allowed in the mine surface facilities and the temporary access roads to drill pad locations will be controlled during project surface activities. Precautions for public health and safety will also be implemented during transport of equipment along public roads to and from the project area. Potential risks to public health and safety would be low and would occur over limited, brief periods.

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.

Inventories have been completed for historic and cultural resources in the area and no potential impacts to important historic or cultural resources have been identified. These resources are discussed again in item 8. The following Critical Elements of the Human Environment are not affected because they are not present near the project area: Areas of Critical Environmental Concern, Wilderness Areas, Wild and Scenic Rivers, and Prime or Unique Farmlands. The Proposed Action includes mitigation measures to minimize any effects to small areas of wetlands in the lease areas. Fourteen Critical Elements of the Human Environment and five Non-critical Elements were analyzed in detail in the EA.

BMPs and mitigation measures were identified for those elements that could be affected. None of these elements would be significantly impacted because BMPs and mitigation measures would reduce any potential effects to no impacts or minor impacts.

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

This decision for leasing additional coal reserves and its effects are not unique. Coal leasing decisions have been made in this area by this field office for many years. There is no scientific controversy over the nature of the impacts. There is some uncertainty about the long-term cumulative effects of GHGs and how these effects can be managed. Drilling for the GVBs would occur for brief periods at specific locations and would create little risk of effects spreading to local communities. Reclamation and revegetation has been successful in the past and can continue to be successful. The potential intensity of effects on the quality of the human environment is minimal.

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

The project is not unique or unusual in this area. Coal mining has been ongoing in the area for over a century and both the BLM and the USFS have been making decisions on similar actions for many years. The BLM has experience implementing similar actions in this and similar areas. There are no predicted potential effects to the human environment that are considered to be highly uncertain or to 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.

This decision is not precedent setting. The Proposed Action was considered in the context of past, present and reasonably foreseeable actions. This decision is not unusual and significant cumulative effects are not predicted. This decision does not entail any known issues or elements that would create a precedent for future mining or mine venting decisions. The decision does not represent a decision in principle about a future consideration. Documentation in an EIS is not required.

7) Consideration of the action in relation to other actions with individually insignificant but cumulatively significant impacts.

The Proposed Action was considered in the context of past, present and reasonably foreseeable actions. Because methane emission rates are roughly correlated with coal production rates, and because coal production under the Proposed Action is expected to be consistent with current production levels, the rate of methane emission is not expected to differ greatly from current emission rates. Accurately predicting the degree of impact any single emitter of GHGs may have on global climate change or the changes to biotic and abiotic systems that accompany climate change is not possible at this time. As such, the controversy is to what extent GHG emissions resulting from implementation of the

Proposed Action may contribute to global climate change as well as the accompanying changes to natural systems. The degree to which any observable changes can or would be attributable to the Proposed Action cannot be reasonably predicted at this time. Therefore, significant cumulative effects are not predicted.

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 historic resources.

Inventories have been completed for historic and cultural resources in the area and no potential impacts to districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or potential loss or destruction of significant scientific, cultural, or historic resources have been identified. No cultural or historic sites would be directly affected by the Proposed Action. Subsidence over mined areas could result in localized cracking, sloughing or rock toppling, particularly in areas of steep slopes. No significant or potentially eligible cultural resources have been identified in settings that may be affected by subsidence. If any previously unknown cultural resources are located during construction of the drill pads or roads, construction would stop and the BLM and Colorado Office of Archaeology and Historic Preservation would be notified.

9) The degree to which the action may adversely affect an endangered or threatened species or its critical habitat.

The USFWS has been consulted in the EA process and block clearance surveys were conducted for the project area and surrounding areas. All known threatened, endangered, candidate, or sensitive species were considered in the EA. The decision may contribute to down-river cumulative effects on four Colorado River endangered fish species through continuation of permitted water depletions and minor sediment runoff. The scope of this project is consistent with sufficient progress thresholds of the Biological Opinion (USFWS 2005) addressing OMLLC's request for a 40-year water service contract. The drilling activities would not affect any lynx denning habitat, suitable reproductive habitat, summer or winter foraging habitat, or migration habitat. The Proposed Action would not affect suitable Yellow-billed cuckoo or northern goshawk habitat. It is unlikely that Rocky Mountain thistle occurs in the area. No adverse impacts to endangered, threatened, or sensitive species or their habitat have been identified. Nevertheless, mitigation measures are specified in the EA for the protection of sensitive plant species. Mitigation measures have also been identified for migratory birds and nesting raptors. With the implementation of BMPs and identified mitigation measures no impacts or minor short-term impacts to endangered or threatened species are predicted.

10) Whether the action threatens a violation of federal, state, or local law or requirements imposed for the protection of the environment.

To the best of my knowledge the Proposed Action does not violate or threaten violation of any federal, state, local, or tribal law or requirement imposed for the protection of the environment. State, local and tribal interests were given the opportunity to participate in the environmental analysis process.

DETERMINATION

This FONSI is based on the information contained in the EA and my consideration of criteria for significance (40 CFR 1508.27). It is my determination that: 1) the implementation of the Proposed Action will not have significant environmental impacts; 2) the Proposed Action is in conformance with the Uncompahgre Basin Resource Management Plan; and 3) the Proposed Action does not constitute a major federal action having significant effect on the human environment. Therefore, an EIS is not required.

Approved:

Barbara Sharrow

Barbara Sharrow
Field Manager
Uncompahgre Field Office

2-2-10
Date