UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

Colowyo Coal Mine
Collom Permit Expansion Area Project
Federal Lease Modification
Finding of No Significant Impact

Moffat County, Colorado

Federal Coal Lease COC-0123475 01
June 2016

U.S. Department of the Interior
Bureau of Land Management
Little Snake Field Office
455 Emerson Street
Craig, CO 81625
PH: 970-826-5000
FAX: 970-826-5002

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LITTLE SNAKE FIELD OFFICE

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A. Introduction

The Colowyo Coal Mine is located approximately 26 miles (42 km) southwest of Craig, Colorado and 22 miles (35 km) north-northeast of Meeker, Colorado in Moffat and Rio Blanco Counties. The Colowyo Coal Company (Colowyo) currently operates the Colowyo Coal Mine on federal coal leases COC-29224, COC-29225, COC-29226, COC-35874, and COC-034365 and is producing coal from the South Taylor Pit. Colowyo operates the existing Colowyo Coal Mine under Coal Mining Permit number C-1981-019 issued by the Colorado Division of Reclamation Mining and Safety (CDRMS) in accordance with their approved Colorado State Coal Regulatory Program (30 CFR Part 906) issued under the federal Surface Mining Control and Reclamation Act of 1977 (SMCRA).

Since Colowyo is nearing the end of mining its coal reserves in the South Taylor Pit, it needs to develop new reserves to fulfill its existing coal supply contractual obligations and also to meet continuing coal market demands. For this reason, Colowyo proposed to develop and mine new coal reserves from federal leases in the Collom Permit Expansion Area. On January 26, 2009, Colowyo submitted an application for Permit Revision No. 3 (PR03) to CDRMS to expand the mine permit boundary approved in their existing SMCRA permit to include the Collom Permit Expansion Area. Colowyo proposed mining and reclamation activities on federal leases COC-0123475 01 and COC-68590, mining related operations and facilities on state and private lands, and reclamation related surface disturbance on 27.84 acres of unleased federal land. The unleased federal land would be disturbed during the late stages of reclamation for the final contour grading to tie in the natural topography with the adjacent areas that were previously covered by the temporary overburden stockpile. On May 29, 2013, CDRMS approved PR03 for the Collom Permit Expansion Area.

The Office of Surface Mining Reclamation and Enforcement (OSMRE) and the Bureau of Land Management (BLM) initiated the preparation of the *Colowyo Coal Mine, Collom Permit Expansion Area Project Environmental Assessment* (the EA) in September 2013 to analyze the potential environmental effects of Colowyo's proposed mining plan modification under PR03; PR03 is analyzed as the Proposed Action/Alternative A in the EA. In response to BLM internal scoping concerns about the potential impacts of Alternative A on greater sage-grouse (GRSG) and its habitat, as well as to respond to public outreach comments asking for analysis of a reduced mining alternative, Colowyo developed and proposed another action alternative (Alternative B) for analysis in the EA. Under Alternative B, Colowyo proposed a modification to the PR03 mining plan to reduce the amount of coal to be mined, move mining operations as far as

practical from a GRSG lek, and to include additional measures to protect GRSG and its habitat. In order to implement Alternative B, Colowyo would need approval of a new permit revision by CDRMS; therefore, on March 16, 2015, Colowyo submitted an application to CDRMS for a permit revision (PR04) that would encompass the activities proposed under Alternative B. In addition to the involved federal leases, as under Alternative A, a portion of the Project was proposed to occur on the 27.84 acre tract of currently unleased federal land. However, under Alternative B, the use of those lands would be different than under Alternative A. Under Alternative B, that parcel would be used as an integral part of the design and placement of the temporary overburden stockpile. Use of the surface of the parcel would be necessary to move disturbance and operations away from GRSG lek SG-4. The parcel would be completely covered by the northwest portion of the stockpile.

However, the unleased federal tract would need to be under lease before a decision is made on the mining plan modification under either Alternative A or Alternative B. To address this issue, BLM regulations at 43 CFR Subpart 3432 provide Colowyo the opportunity to apply to BLM for approval of a "lease modification" to add less than 960 acres of unleased lands to an existing federal coal lease which would grant right of entry to the lands to the lessee for the purpose of developing federal coal resources. On September 24, 2014, Colowyo submitted an application to the BLM Little Snake Field Office (LSFO) for approval of a lease modification to add the 27.84-acre tract of unleased federal land to adjacent federal lease COC-0123475 01 for the purpose of supporting the development of coal resources on that lease, as well as on federal lease COC–68590.

The BLM has the authority to make the lease modification decision under the regulations at 43 CFR Subpart 3432. A BLM decision on the lease modification is a separate federal action from the decision on the mining plan modification, but because there would be no need for the lease modification without the proposed mining plan modification, both federal actions are analyzed together in the EA. This finding of no significant impact (FONSI) relates only to the modification of federal lease COC-0123475 01. OSMRE has the regulatory responsibility to make a recommendation to the Assistant Secretary for Land and Minerals Management (ASLM) to approve, disapprove, or conditionally approve a new mining plan or modification of an existing mining plan under 30 CFR 746.13, and the ASLM has the authority to then make the decision. Upon BLM approval of the lease modification, OSMRE will make a recommendation to the ASLM on the mining plan modification decision and the ASLM will subsequently make that decision.

BLM, as a joint lead agency with OSMRE, prepared the EA to satisfy BLM requirements under the National Environmental Policy Act (NEPA), 42 USC 4332(2)(C). BLM jointly prepared this EA with OSMRE to evaluate the environmental effects that would result from the Project under two action alternatives, including the lease modification: PR03 (Alternative A) or PR04 (Alternative B), as well as No Action (Alternative C). The EA was prepared pursuant to the requirements of NEPA, the Council on Environmental Quality (CEQ), Department of the Interior (DOI), and BLM regulations and guidance regarding implementing NEPA. The lease modification action was not analyzed distinctly in the EA; instead, the impacts of the proposed changes to the mining plan boundary and operations were analyzed as a whole and disclosed in the document.

B. Statement of Environmental Significance of Alternative B

Pursuant to 43 CFR Subpart 3432, BLM is recommending selection and approval of Alternative B (see **Section C** below). The undersigned person has determined that approval of a federal lease modification to add 27.84 acres of unleased federal land to federal lease COC-0123475 01 under PR04, and the authorization to disturb that tract with mining operations proposed under the Project, would not have a significant impact on the quality of the human environment under section 102(2)(C) of NEPA, 42 USC 4332(2)(C); therefore, an Environmental Impact Statement is not required.

C. Reasons

BLM is the federal agency delegated the authority to offer federal coal resources for leasing and to issue leases. The Mining and Minerals Policy Act (MMPA) declares that it is the continuing policy of the federal government to foster and encourage the orderly and economic development of domestic mineral resources. In that context, BLM complies with the Federal Land Policy and Management Act (FLPMA) to plan for multiple uses of public lands and determine those lands suitable and available for coal leasing and development. Through preparation of land use plans and/or in response to coal industry proposals to lease federal coal, BLM complies with NEPA to disclose to the public the potential impacts from coal leasing and development, and also complies with other environmental laws to ensure appropriate protection of other resources. BLM then makes the lands that are determined suitable for coal development available for leasing. BLM implements its responsibilities for leasing and oversight of coal exploration and development under its regulations at CFR, Title 43, Public Lands, Subtitle B, Chapter II, BLM, Department of the Interior, Subchapter C – Minerals Management, Parts 3400 – 3480 (43 CFR Parts 3400-3480).

The EA analyzed the potential impacts associated with two action alternatives and the No Action alternative. Alternative A (Proposed Action), as described under CDRMS approved PR03 (**Section A**), would modify the existing approved mining plan to authorize the mining of 81,660,000 tons of additional federal coal from two open pits, the Collom Lite Pit and Little Collom X Pit, located within federal coal leases COC-0123475 01 and COC-68590. Coal would be produced at a maximum rate of 6 million tons per year (mtpy) and with a surface disturbance of 2,090.5 acres. Alternative A would also add a 27.84 acre tract of unleased federal land managed by the BLM to federal lease COC-0123475 01, on which mining activities described under Alternative A would partially occur. The 27.84 acre lease modification would be disturbed during the final stages of reclamation. Disturbance of those lands would be necessary for the final contour grading to tie in the natural topography with the adjacent areas to the north, east, and south that was previously covered by the temporary overburden stockpile.

The EA also analyzed the impacts of another action alternative: Alternative B (Reduced Mining and Additional Greater Sage-Grouse Protection), as described under Colowyo proposed PR04 (**Section A**). Public outreach comments identified concerns about the direct and indirect surface impacts of Alternative A on rare imperiled fish, wildlife, and plants. Outreach comments also identified the need for OSMRE to consider an alternative that would reduce environmental impacts by limiting the amount of coal tonnage and/or acreage to be mined to lower levels than are currently proposed. Further, through internal consideration of

Alternative A, OSMRE and the BLM identified concerns about the potential impact of Alternative A on GRSG, and their habitat. Alternative B would incorporate Project design features in addition to those already incorporated in Alternative A to reduce or eliminate potential impacts to GRSG and its habitat, as well as to enhance the protection of habitat and the understanding of GRSG behavior and reactions to mining operations. The additional Project design features were collaboratively developed by Tri-State, Colowyo, OSMRE, BLM, Colorado Parks and Wildlife (CPW), and USFWS during numerous meetings held at the CPW office in Meeker, between January 23, 2014, and October 23, 2014. A final Project design feature proposal was preliminarily agreed upon on October 23, 2014, and formally agreed to with the signing of a Memorandum of Understanding between the agencies and Tri-State. The agreed-upon Project design features under Alternative B would include the following items:

1. Design the temporary overburden stockpile to locate proposed new surface disturbances for the temporary overburden stockpile to a minimum distance of 0.9 mile (1.5 km) from GRSG lek SG4.

2. Donation to CPW of 4,543 acres of Priority Habitat Management Area (PHMA, formerly referred to as Preliminary Priority Habitat) (breeding and winter with some summer habitat), for GRSG in five distinct parcels outside the SMCRA permit boundary, currently owned and managed by Colowyo, to preserve the PHMA in perpetuity.

3. Transfer of all mineral rights and grazing preference held by Colowyo on those parcels to CPW, as well as the water rights to any stock watering structures located on those parcels.

4. Monitoring of GRSG by CPW in the vicinity of the Colowyo mine funded by a donation of at least $150,000 from Tri-State to CPW.

In comparison with Alternative A, Alternative B would also result in the following:

1) reduction of the amount of overburden needing storage in the temporary overburden stockpile by 43,600,000 cubic yards or about 28 percent;

2) re-design and relocation of the footprint of the temporary overburden stockpile further south and upslope in Collom Gulch to maintain a no surface disturbance distance of 3,820 feet from the perimeter of GRSG lek SG4;

3) maintenance of a no surface activity distance of 1 mile (1.6 km) from the GRSG lek SG4 during the lekking and early brood rearing season;

4) relocation of the power line alignment away from the Collom Haul Road further to the south and further from GRSG lek SG4;

5) mining of approximately 2,550,000 tons less coal thereby reducing the overall mine life by about four years;

6) reduction of the amount of explosives used by 14,754,325 lbs.; and

7) reduction of water usage by approximately 120,000,000 gallons.

The 27.84 acre lease modification parcel would be an integral part of the design and placement of the temporary overburden stockpile and use of the surface of those lands would be necessary to achieve the 0.9 mile (1.5 km) surface disturbance buffer distance from GRSG lek SG-4. The parcel would lie within the northwest portion of the stockpile and would be completely covered by the stockpile.

Selection and implementation of Alternative B would also require prior CDRMS approval of PR04 under state regulations. CDRMS would approve PR04 once the BLM issues their decision on the 27.84 acre lease modification; once CDRMS approves PR04, OSMRE could issue a final, signed FONSI and make a recommendation to the Assistant Secretary for Lands and Minerals (ASLM) on a decision for the mining plan modification.

Alternative B would have a final disturbance footprint of 2,636.7 acres or about 26 percent more acreage (546.2 acres) than Alternative A. This would be due to the nature of the terrain over which the temporary overburden stockpile would be placed under Alternative B in comparison to Alternative A. Under Alternative A, that stockpile would be placed primarily within Little Collom Gulch. Under Alternative B, the stockpile would be spread over a wider area of flatter terrain when compared with Alternative A. Alternative B would also disturb more federally-owned surface over federally-owned coal and privately-owned surface over federally-owned coal than Alternative A.

Both action alternatives include design features to reduce or eliminate potential adverse impacts to the environment, and similar reclamation plans. Mine production would extend 19 years under Alternative A and 15 years under Alternative B. Under all alternatives, once mining has ceased, closure of the pit(s) would commence and reclamation would be completed.

Under Alternative C (No Action) the unleased federal land would not be added to COC-0123475 01, the proposed mining plan would not be approved, federal coal reserves in the Collom Permit Expansion Area would not be recovered and therefore bypassed, and production at the Colowyo Coal Mine could cease around 2019 or before, once coal reserves in the South Taylor Pit are mined out. Reclamation operations would continue after mining ceased and would be completed in approximately 2029. Under Alternative C, there would be no surface disturbance in the Collom Permit Expansion Area.

The attached EA considers a reasonable range of alternatives to the Proposed Action, discloses the potential environmental effects of the alternatives, and provides sufficient evidence and support for this FONSI. Further, the undersigned has determined that per the CEQ's, DOI's, and BLM's regulations and guidance, the public involvement requirements have been met. The proposed lease modification was not an original element of the Project and EA when public scoping was initiated, but was recognized during development of Alternative B as a necessary action for implementation of that alternative. OSMRE solicited public comments regarding the Project as proposed in PR03 via public outreach legal notices published in the Rio Blanco Herald Times and the Craig Daily Press on September 26 and 27, 2013 and again on October 24 and 31, 2013, respectively. Public comments were accepted between October 1 and November 14, 2013 (44 days)[1]. A public outreach meeting was held at the BLM LSFO in Craig on November 7, 2013. Prior to the final decision, the EA and unsigned FONSI were made

[1] This extended period was due to the delay in holding a public outreach meeting during the government shutdown.

available to the public for review during a 30-day comment period held January 19 through February 18, 2016. All public comments received to date (Appendix E) have been fully considered in the EA and in reaching this FONSI.

This finding is based on the context and intensity of the Project that will be conducted as proposed under Alternative B as described in the following paragraphs.

Context: Colowyo proposes to meet demand for coal and continue mine operations through approximately 2030 by:

1. Securing a federal mining plan modification approval from the ASLM authorizing mining of leased federal coal in an expanded permit boundary (i.e., the Collom Permit Expansion Area [PR04]);

2. Securing a federal coal lease modification approval for 27.84 acres from the LSFO and authorization to disturb that tract with mining activities associated with PR04; and,

3. Continuing to mine, process, and ship (via rail) coal from the mine.

The approval of the lease modification under Alternative B is a site specific action that will authorize Colowyo to disturb the 27.84-acre tract as part of a total disturbance of 2,636.7 acres of previously undisturbed federal coal lands during active mining and reclamation operations. Relative to No Action (Alternative C), mining would continue for an additional 15 years and about 79,110,000 more tons of coal would be recovered at a maximum rate of 5.1 mtpy. The effects of the action have been analyzed at the local and regional scale.

Intensity: The following discussion is organized around the 10 Significance Criteria described within the federal regulations at 40 CFR 1508.27. The following have been considered in evaluating the severity of impacts for this Project, which will include the lease modification:

1. Impacts that may be both beneficial and adverse:

Beneficial and adverse impacts of Alternative B are described in the attached EA. Environmental design features to reduce potential short-term and long-term impacts to topography, air quality, water resources, vegetation, fish and wildlife, special status species, cultural resources, visual resources, and soils are incorporated into the design of Alternative B; additionally, mitigation measures related to air quality and wetlands and Waters of the U.S. are required by the state-approved mine permit and stipulations to the federal coal lease permit, and approved mining plan.

The Project will contribute insignificant particulate emissions, gaseous emissions, and hazardous air pollutants in comparison to the Colorado and U.S. totals. Further, the contribution of the Project to greenhouse gas emissions (GHG), both to Colorado and U.S. totals, will be insignificant. The direct impacts on air and climate resources from a state and U.S. comparison are considered negligibly adverse. Regionally (Garfield, Moffat, Rio Blanco, and Routt Counties), the comparative emissions are higher (moderate to high impact), but the region has and is expected to remain in attainment. Indirectly, the Project will contribute to criteria emissions and GHG emissions through the combustion of coal at the Craig Generating Station and potentially elsewhere. The emissions impacts resulting from the combustion of Colowyo

Coal Mine coal under Alternative B will represent insignificant impacts relative to U.S. emissions and moderate impacts relative to Colorado emissions. The indirect impacts on air and climate resources are considered negligibly adverse. The direct and indirect effects to topography, geology, water resources, vegetation, fish and wildlife, special status species, visual resources, recreation, noise, livestock grazing, and soils are considered negligible to minor, short-term (except for grazing), and adverse. The impacts to grazing will be minor but long term until reclamation is successful and complete.

There will be beneficial, long-term impacts to the GRSG as a result of design features in PR04 that will include a donation of 4,543 acres of land outside the approve SMCRA permit boundary to CPW for the preservation of GRSG habitat, and the funding of a CPW monitoring study to better understand the impacts of coal mining on GRSG in the Axial Basin. Alternative B will also result in moderate to major beneficial impacts to socioeconomics in the area of influence for 15 years. There will be an extension of employment for approximately 220 employees in Moffat, Rio Blanco, and Routt Counties over this time period. The socioeconomic benefits are derived from payroll, insurance, retirement contributions, local expenditures, taxes, and federal coal royalty payments.

None of the environmental effects discussed in the EA are considered to be significant.

2. The degree to which Alternative B affects public health or safety:

Activities under Alternative B are designed to control the limited public traffic that may occur in the Project Area. Public access to the areas affected by mining is limited and strictly controlled by the mine. All mine activities with potential public exposure will also be subject to state mine permit approval and review by the Mine Safety and Health Administration, which include safety standards. Precautions for public health and safety will also be implemented during transport of equipment along public roads to and from the Project Area. Construction and operation of road crossings associated with the Project will be subject to County approval. Emissions and effluent limits are within approved standards, as required by State permits, thereby limiting potential impacts to public health. Noise levels at the nearest residences will be well below levels that would affect human health. Potential risks to public health and safety will be negligible and will occur over limited, brief periods.

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

There are no park lands, prime farmlands, wild and scenic rivers, wetlands, or ecologically critical areas within the Project Area. Inventories of historic or cultural resources have been completed for the Area of Potential Effect and no National Register of Historic Places (NRHP)-eligible sites have been identified within the disturbance area. One NRHP-eligible and one "needs data" site was identified within the Project Area and adjacent to areas of proposed disturbance. If future mining operations cannot avoid the NRHP-eligible site, a mitigation plan would be written, approved by BLM in consultation with SHPO, and implemented prior to planned mining activities. A formal testing and data recovery plan was completed that details the implementation of the excavations and report of findings for the "needs data" site if it cannot be avoided. The plan is part of the approved PR04.

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

As a factor for determining within the meaning of 40 CFR 1508.27(b)(4)—whether or not to prepare a detailed environmental impact statement—"controversy" is not equated with "the existence of opposition to a use." *Northwest Environmental Defense Center v. Bonneville Power Administration*, 117 F.3d 1520, 1536 (9th Cir. 1997). The term 'highly controversial' refers to instances in which "a substantial dispute exists as to the size, nature, or effect of the major federal action rather than the mere existence of opposition to a use" *Hells Canyon Preservation Council v. Jacoby*, 9 F.Supp.2d 1216, 1242 (D. Or. 1998).

The EA has analyzed the direct, indirect, and cumulative effects of the Project on climate change and determined the effects to be negligible. No other anticipated effects have been identified that are scientifically controversial. Approvals of federal mining plans and mining plan modifications have been made in the area for several decades. The design features and reclamation plan will reduce the effects on the environment; or, in some cases, will improve the current condition (e.g., vegetation and wildlife habitat).

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

There are no effects on the human environment under Alternative B that are highly uncertain or involve unique or unknown risks. BLM has experience implementing similar actions in similar areas.

6. The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principal about future consideration:

This decision is not precedent setting. The issues considered in the EA were developed by the interdisciplinary team within the context of past, present, and reasonably foreseeable actions. Significant cumulative impacts are not anticipated.

7. Whether the action is related to other actions with individually insignificant but cumulatively significant impacts – which include connected actions regardless of land ownership:

The interdisciplinary team evaluated the possible issues in the context of past, present, and reasonably foreseeable actions, including the entire Colowyo operation and other mining operations, the transport of coal from the mine, and the combustion of that coal at the Craig Generating Station, ranching, recreation, and oil and gas development. Both the indirect and cumulative effects of coal combustion at the Craig Generating Station and potentially elsewhere were disclosed in the EA. There were no significant cumulative effects identified.

8. The degree to which the action may adversely affect districts, sites, highways, structures, or other objects listed in or eligible for listing in the NRHP or may cause loss or destruction of significant scientific, cultural, or historical resources:

Inventories of historic or cultural resources have been completed for the Area of Potential Effect and no NRHP-eligible sites have been identified within the disturbance area. One NRHP-eligible and one "needs data" site was identified within the Project Area and adjacent to areas

of proposed disturbance. If future mining operations cannot avoid the NRHP-eligible site, a mitigation plan would be written, approved by BLM in consultation with SHPO, and implemented prior to planned mining activities. A formal testing and data recovery plan was completed that details the implementation of the excavations and report of findings for the "needs data" site if it cannot be avoided. The plan is part of the approved PR04. OSMRE and BLM consulted with the State Historical Preservation Office and the Eastern Shoshone, Ute, Ute Mountain Ute, and Southern Ute tribes for the Project and no concerns were identified.

9. The degree to which an action may adversely affect a threatened or endangered species or its habitat that has been determined to be critical under the Endangered Species Act of 1973:

Four endangered Colorado River fish species (humpback chub [*Gila cypha*], Colorado pikeminnow [*Ptychocheilus lucius*], bonytail chub [*Gila elegans*], and razorback sucker [*Xyrauchen texanus*]) and the threatened western yellow-billed cuckoo (*Coccyzus americanus*), were identified as being within the analysis area for the Project. Formal Section 7 consultation on the effects of coal combustion and subsequent mercury and selenium deposition on the Colorado River fish and western yellow-billed cuckoo in the Yampa River basin under Alternative B is ongoing.

10. Whether the action threatens a violation of a federal, state, local, or Tribal law, regulation, or policy imposed for the protection of the environment, where non-federal requirements are consistent with federal requirements:

The Project will not violate any known federal, state, local, or Tribal law or requirement imposed for the protection of the environment. During the public and agency involvement for this EA, state, local, and Tribal interests were given the opportunity to participate in the environmental analysis process. The Project is consistent with applicable plans, policies, and programs.

Joseph E Meyer

Joseph Meyer, Northwest District Manager
BLM

6-27-16

Date

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