

U.S. Department of the Interior
Bureau of Land Management
White River Field Office
220 E Market St
Meeker, CO 81641

CATEGORICAL EXCLUSION

NUMBER: DOI-BLM-CO-110-2012-0020-CX

CASEFILE/PROJECT NUMBER: COC-0126669-01

PROJECT NAME: Blue Mountain Energy Coal Lease Readjustment COC-0126669-01

LEGAL DESCRIPTION: T2N, R101W, 6th PM
Section 11: Lots 1, 2; 4, 5, 6;
Section 12: Lots 2, 3, 4, 5.
(259.06 acres)

APPLICANT: Blue Mountain Energy Inc. (BME)

DESCRIPTION OF PROPOSED ACTION:

Background/Introduction: BME's Deserado mine is an existing active underground coal mine that utilizes longwall mining techniques and is located approximately seven miles east of Rangely, Colorado in Rio Blanco County. It was permitted in 1981 and is the sole source of coal for the Bonanza Power Plant in Bonanza, Utah. No other market or load out facility is available for outside coal sales. Coal is shipped 37 miles via electric train from the mine to the power plant. BME currently holds seven federal coal leases (See Attachment 1) that comprise the Deserado Mine Logical Mining Unit (LMU) COC57190. All coal leases issued after August 4, 1976 are subject to readjustment at the end of the first 20-year period and every 10 years thereafter. Activities conducted on the leases are in accordance with Blue Mountain Energy Deserado Mine Permit. All of COC-0126669-01 (See Attachments 2 and 3) estimated recoverable coal reserves have been mined. October 1997 was the date of the last coal recovery from this lease and subsequently the area has been sealed. It is unlikely any new activity will occur within COC-0126669-01. This lease is included in the Deserado Mine LMU COC57190.

Proposed Action: BME's preference right coal lease COC-0126669-01 was issued effective August 1, 1982. The initial 20-year readjustment was effective August 1, 2002 and is subject to the 10 year readjustments effective August 1, 2012. Terms, conditions, and special stipulations of the existing lease should be reviewed to determine applicability to current lease management and recommend any lease adjustments necessary to meet current management.

PLAN CONFORMANCE REVIEW: The Proposed Action is subject to and has been reviewed for conformance with (43 CFR 1610.5-3, BLM 1601.08) the following plan:

Name of Plan: White River Record of Decision and Approved Resource Management Plan (ROD/RMP).

Date Approved: July 1, 1997

Decision Number/Page: Page 2-7

Decision Language: "Ensure that federal coal resources identified as acceptable for further consideration for coal leasing, are available for exploration, leasing and development."

CATEGORICAL EXCLUSION REVIEW: The Proposed Action qualifies as a categorical exclusion under 516 DM 11.9, Number F-2. "Approval of mineral lease readjustments, renewals, and transfers including assignments and subleases."

The Proposed Action has been reviewed with the list of extraordinary circumstances (43 CFR 46.215) described in the table below.

Extraordinary Circumstance	YES	NO
a) Have significant adverse effects on public health and safety.		X
b) Have significant impacts on such natural resources and unique geographic characteristics as historic or cultural resources; park, recreation, or refuge lands; wilderness areas; wild or scenic rivers; national natural landmarks; sole or principal drinking water aquifers; prime farmlands; wetlands; floodplains; national monuments; migratory birds; and other ecologically significant or critical areas.		X
c) Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources.		X
d) Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.		X
e) Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects.		X
f) Have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects.		X
g) Have significant impacts on properties listed, or eligible for listing, in the National Register of Historic Places as determined by the bureau.		X
h) Have significant impacts on species listed, or proposed to be listed, on the List of Endangered or Threatened Species, or have adverse effects on designated Critical Habitat for these species.		X
i) Violate a Federal law, or a State, local or tribal law or requirement imposed for the protection of the environment.		X

Extraordinary Circumstance	YES	NO
j) Have a disproportionately high and adverse effect on low income or minority populations.		X
k) Limit access to and ceremonial use of Indian sacred sites on Federal lands by Indian religious practitioners or significantly affect the physical integrity of such sacred sites.		X
l) Contribute to the introduction, continued existence, or spread of noxious weeds or non-native invasive species known to occur in the area or actions that may promote the introduction, growth, or expansion of the range of such species.		X

INTERDISCIPLINARY REVIEW:

The Proposed Action was presented to, and reviewed by, the White River Field Office interdisciplinary team on 04/10/2012. A complete list of resource specialists who participated in this review is available upon request from the White River Field Office. The table below lists resource specialists who provided additional remarks concerning cultural resources and special status species.

Name	Title	Resource	Date
Kristin Bowen	Archaeologist	Cultural Resources, Native American Religious Concerns	04/18/2012
Ed Hollowed	Wildlife Biologist	Special Status Wildlife Species	04/13/2012
Zoe Miller	Ecologist	Special Status Plant Species	04/18/2012

REMARKS:

Cultural Resources: This area of the mine was last used in 1997 and it is not anticipated that any mining will be done in this lease area in the future. No new surface disturbance is planned in this area. Readjusting, and therefore extending the length of the lease, in this area should cause no impacts to cultural resources.

Native American Religious Concerns: This area of the mine was last used in 1997 and it is not anticipated that any mining will be done in this lease area in the future. No new surface disturbance is planned in this area. Readjusting, and therefore extending the length of the lease, in this area should cause no impacts to areas of Native American religious concern.

Special Status Wildlife Species: Threatened and Endangered animals considered in previous NEPA analysis involved bald eagle (now delisted), black-footed ferret (no habitat involved in this particular lease), sage-grouse (currently a candidate species) and the endangered Colorado River fishes, particularly Colorado pikeminnow.

The White River and its 100-year floodplain (about 62 acres encompassed by the lease tract) remain designated critical habitat for the pikeminnow, although occupied habitat is relegated to the river below Taylor Draw dam, about 4 valley miles downstream of the lease tract). Depletion impacts to the pikeminnow and the remaining downstream contingent of endangered fish species were consulted on at various times through the mine's history. The Section 7 requirements and no-affect determination rendered by the U.S. Fish and Wildlife Service remain current.

Bald eagle habitat and use functions in the WRFO, as well as the candidate yellow-billed cuckoo (no known presence in WRFO), are based on the availability of riverine communities comprised of cottonwood gallery forests with well-developed willow understories. There are no cottonwood stands closely associated with the 100-year floodplain encompassed by the lease tract, rather, these lands are composed of open water (6 acres), the shallow tail-water flood pool of Kenney Reservoir (24 acres), and scattered stands of coyote willow amid heavy grass and sedge-dominated emergent wetland. These wetlands are likely occupied by the BLM-sensitive northern leopard frog.

A small breeding population of greater sage-grouse were present in the lower Red Wash watershed through the mid to late 1980s, but this population has since been locally extirpated. Although the elevated sagebrush benches along lower Red Wash and encompassed by the lease tract are within 2.5 miles of the historic lek site and represent habitat ostensibly suited for sage-grouse, it is unlikely that these discontinuous habitat patches (43, 3, and 19 acres), largely separated from the broader sagebrush habitats surrounding the lek site (Hatch Gulch/Cactus Reservoir) by intervening stands of Utah juniper, figured prominently in nesting or brood-rearing roles. Due to their separation from habitat extent more central to this population, it is probably doubtful that these areas ever sustained consistent general summer, fall, or winter use, as well. These sagebrush stands also represent habitat occupied by Brewer's sparrow, the only BLM-sensitive migratory bird likely to occur on the lease tract.

Remaining wildlife issues (raptor nesting, big game severe winter range) were adequately addressed in the original NEPA document. The Proposed Action, as conditioned by the existing set of WRFO stipulations (See Attachment 4), would have no reasonable potential to influence these species or their habitat.

Special Status Plant Species: The BLM sensitive species debris milkvetch (*Astragalus detritalis*) has the potential to occur with the project area. Any surface disturbance associated with the Proposed Action may require a special status plant species survey, depending on the location. If debris milkvetch is found in an area to be disturbed, the following Conditions of Approval may be applied: movement of disturbance location to avoid special status plants, seed collection to possibly reseed in reclamation, seed collection to preserve genetic material, replacement of soil horizons in pre-disturbance order, weed control and management, and construction to occur outside of the blooming season. If no special status plant species are found in pre-disturbance surveys, then there would be no impact to these plant species.

MITIGATION: See Attachment 4

COMPLIANCE PLAN: Blue Mountain Energy Deserado Mine Permit

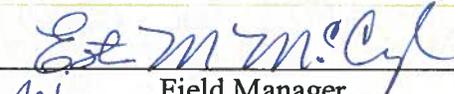
NAME OF PREPARER: Paul Daggett

NAME OF ENVIRONMENTAL COORDINATOR: Heather Sauls

COMPLIANCE WITH NEPA

The Proposed Action is categorically excluded from further documentation under the National Environmental Policy Act (NEPA) in accordance with 516 DM 11.9, F-2. This categorical exclusion is appropriate in this situation because there are no extraordinary circumstances potentially having effects that may significantly affect the environment. The Proposed Action has been reviewed, and none of the extraordinary circumstances described in 43 CFR 46.215 apply.

SIGNATURE OF AUTHORIZED OFFICIAL:


Acting Field Manager

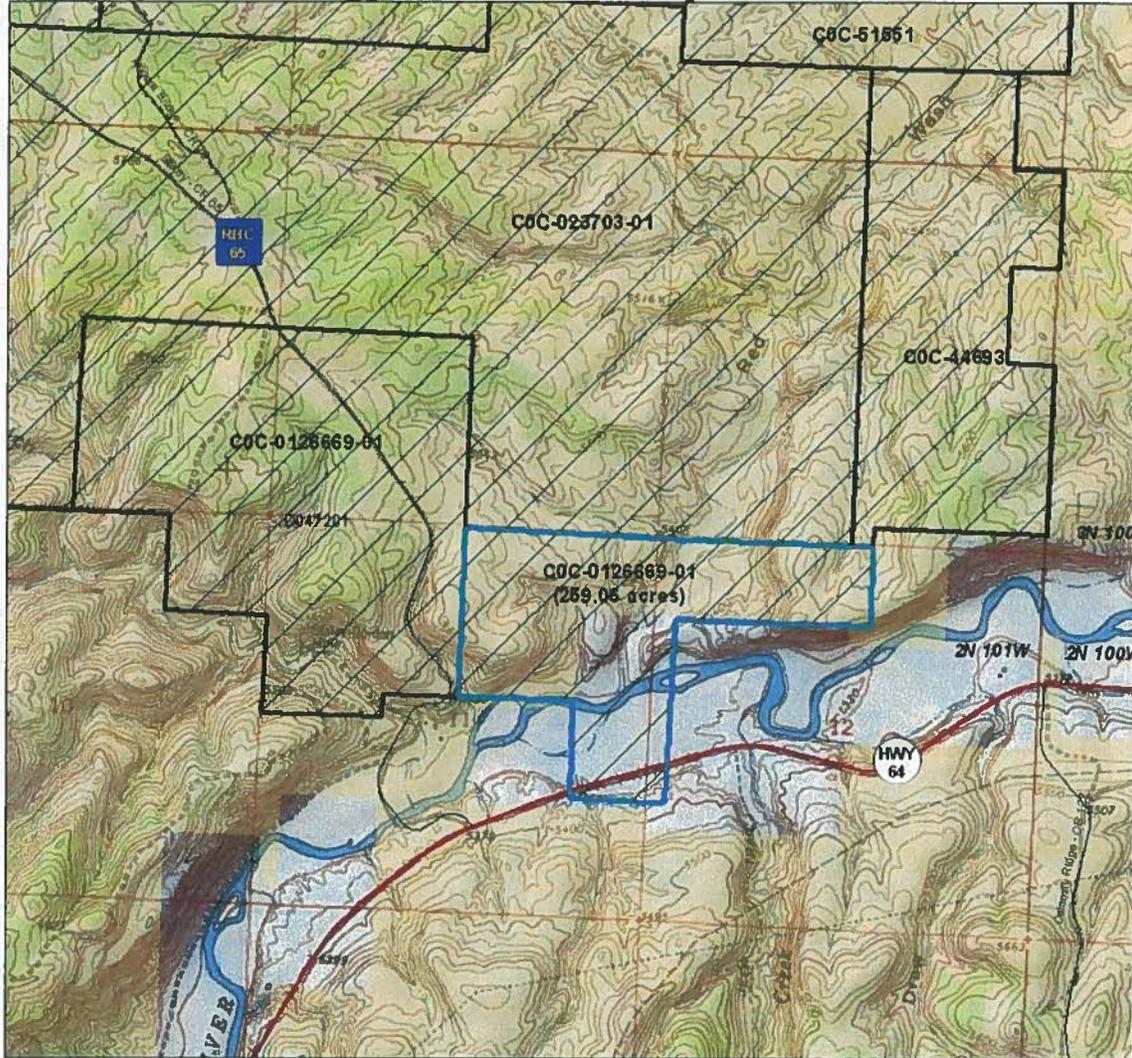
DATE SIGNED:

4/27/2012

ATTACHMENTS:

- Attachment 1: BME Coal Lease Map
- Attachment 2: Location Map – Topographic Map
- Attachment 3: Location Map – Aerial Photo
- Attachment 4: Coal Lease Special Stipulations

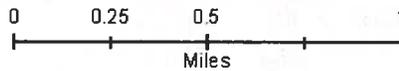
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04/09/12

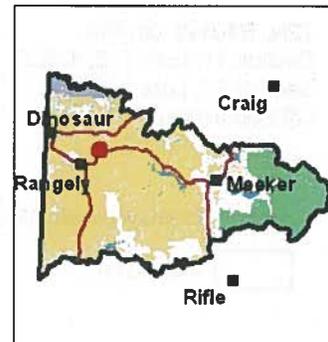


Sources:
 BLM, US GS, CDDW, etc.

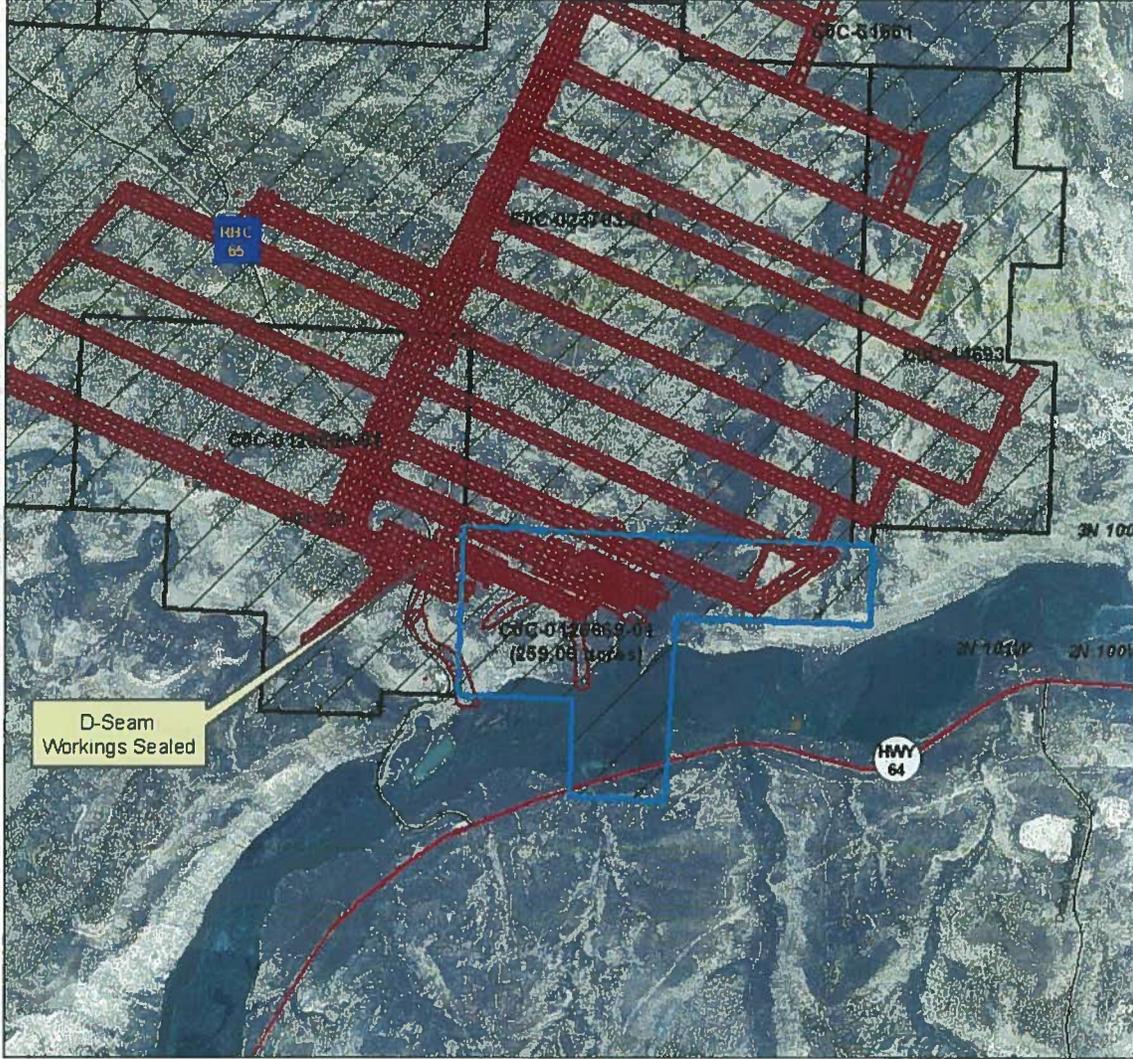
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 Coal Leases



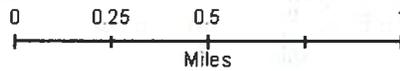
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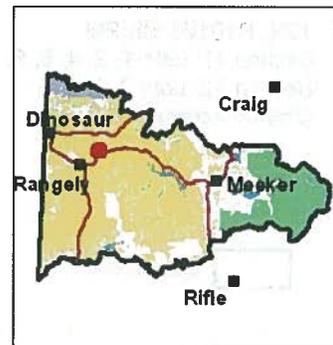
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deserado_works_0309
 CoalLeases

Sources:
 BLM, US GS, CDDW, etc.

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Attachment 4: Coal Lease Special Stipulations

(a) Cultural Resources. (1) Before beginning any surface disturbing activities on the leased lands, lessee shall conduct a cultural resource intensive field inventory on those portions of the mine plan area and adjacent areas, or exploration plan area, which may be adversely affected by lease-related activities and which were not previously inventoried at such a level of intensity. The inventory shall be conducted by a qualified professional cultural resource specialist approved by the authorized officer of the Bureau of Land Management (BLM) and shall be conducted in the manner that the authorized officer specifies.

(2) Lessee shall submit an inventory report, including recommendations for protecting any significant cultural resources, to the Regional Director, Western Regional Coordinating Center, Office of Surface Mining Reclamation & Enforcement (OSMRE), and the BLM authorized officer. Lessee shall not begin surface disturbing activities until permission to proceed is given by the appropriate authorized officer.

(3) Lessee shall protect all known cultural resource properties within the lease area from lease-related activities until cultural resources avoidance or mitigation measures can be implemented as part of an approved exploration plan or an approved mining and exploration plan.

(4) The cost of conducting the inventory, preparing reports, and carrying out mitigation measures shall be borne by the lessee.

(5) If cultural resources are discovered during operations under the lease, lessee shall immediately notify the authorized officer of the BLM and OSMRE. Lessee shall not disturb such discovered resources except as subsequently authorized. Within two (2) working days of notification, the authorized officer will evaluate, or have evaluated, any cultural resources discovered and will determine if any action may be required to protect or preserve such discoveries. Cost of data recovery for cultural resources discovered during lease operations shall be borne by the surface managing agency unless otherwise specified by the BLM authorized officer.

(6) All cultural resources discovered shall remain under the jurisdiction of the United States until ownership is determined under applicable law.

(7) If it becomes necessary to place new facilities in the area, particularly near any of the known resources, a more detailed examination of the placement of the facilities in relation to the known resources shall be undertaken to evaluate any anticipated impacts.

(b) Paleontological Resources. (1) Before beginning surface disturbing activities on the leased lands, lessee shall contact the BLM authorized officer to determine whether lessee will be required to conduct a paleontological appraisal of lease areas that may be adversely affected by lease-related activities. Any paleontological appraisal required shall be conducted by a qualified paleontologist approved by the BLM authorized officer and in the manner the authorized officer specifies.

(2) Lessee shall submit an appraisal report, including recommendations for protecting any larger and more conspicuous fossils of significant scientific interest identified on the leased lands to the BLM authorized officer.

(3) If any such fossils are discovered during operations under this lease, lessee shall immediately notify the Regional Director, OSMRE and the BLM authorized officer. Operations may continue as long as the fossil specimen(s) would not be seriously damaged or destroyed by the activity. Within five (5) working days of notification, the Regional Director, OSMRE, shall evaluate or have evaluated such discoveries and shall notify the lessee what action shall be taken with respect to such discoveries.

(4) Lessee shall not knowingly disturb, alter, destroy, or take any larger and more conspicuous fossils of significant scientific interest and shall protect all such fossils in conformance with the measures included in the approved mining and reclamation plan or exploration plan.

(5) These conditions apply to all such fossils of significant scientific interest discovered within the leased lands, whether discovered in the overburden, interburden, or coal seam or seams.

(6) All fossils of significant scientific interest shall remain under the jurisdiction of the United States until ownership is determined under applicable law.

(7) The cost of any required recovery of such fossils shall be borne by the United States. Copies of all paleontological resource data shall be provided to the Regional Director, OSMRE and the BLM authorized officer.

(8) Individual actions such as road construction, power line pole placement or ventilator shafts will need to be examined on a case-by-case basis to determine what impacts if any will occur to fossil resources.

(c) Wildlife Resources. (1) All lands within the lease are encompassed by big game severe winter range. No development activity is allowed in these areas from December 1 through April 30 (WRFO TL-08). These stipulations are subject to exception and modification provisions established in the 1997 White River RMP.

(2) All lands within the lease lie within raptor nest Timing Limitation (TL) buffers. No development activities are allowed within $\frac{1}{4}$ to $\frac{1}{2}$ mile of identified nests from February 1 through August 15 or until fledging and dispersal of young (WRFO TL-01 and WRFO TL-04). These stipulations are subject to exception and modification provisions established in the 1997 White River RMP.

(3) The following lands are encompassed by No-Surface-Occupancy (NSO) buffers established around raptor nest sites. Surface occupancy is not allowed within $\frac{1}{4}$ mile of identified nests as defined by the following (WRFO NSO-03):

Township 2 North, Range 101 West

Section 11: S1/2 Lot 1; Lots 5, 6.

Section 12: W1/2 Lot 3; Lots 4, 5.

These stipulations are subject to exception and modification provisions established in the 1997 White River RMP.

(4) The following portions of the lease are encompassed by a Controlled Surface Use (WRFO CSU-5) for maintaining the long term suitability, utility and development opportunities for specialized habitat features involving nest, roost, and perch substrate on federal lands. Prior to authorizing surface disturbance within this area, and pending conferral or consultation with the USFWS as required by the Endangered Species Act, the Area Manager may require the proponent/applicant to submit a plan of development that would demonstrate that: 1) involvement of cottonwood stands or cottonwood regeneration areas have been avoided to the extent practicable; 2) special reclamation measures or design features are incorporated that would accelerate recovery and/or reestablishment of affected cottonwood communities; 3) the pre-development potential of affected floodplains to develop or support riverine cottonwood communities has not been diminished; and 4) the current/future utility of such cottonwood substrate for bald eagle use would not be impaired for specialized bald eagle habitat features involving nest, roost, and perch substrate on the following federal lands:

Township 2 North, Range 101 West

Section 11: S1/2 Lot 5; Lot 6.

Section 12: Lot 5.

These stipulations are subject to exception and modification provisions established in the 1997 White River RMP.

(5) Surface use activities that would disrupt migratory bird nesting activities in big sagebrush habitats will, as much as practicable, avoid the primary nesting season of May 15 to July 15.

(d) Buffer Zone Mining is prohibited within a 100-foot buffer area of the 100 year floodplain of the White River within the lease boundary.

(e) Special Status Plants (1) Prior to any surface disturbing activity, all areas must be surveyed with a 100 m buffer according to the WRFO special status plant species survey protocol. BLM may request an avoidance buffer to be implemented if any special status plant species are found within the area to be disturbed. If parts of any special status plant species will be removed or directly affected, the following actions may be employed:

- Before removal of any individual special status plant species, the seed must be collected. The seed can be preserved by a botanical preservation organization as well possibly be used in restoration of the species post disturbance. Any seed collection activity and use must be coordinated with the WRFO-BLM Authorized Officer.
- All seed mixes must use native species only.

(f) Powersite Stipulation (1) If any of the land covered by this lease or permit was, on the date the lease or permit application or offer was filed, within a powersite classification, reservation, or project on which an application for a license or preliminary permit is pending before the Federal

Power Commission or on which an effective license or preliminary permit had been issued by the Federal Power Commission under the Federal Power Act, or on which an authorized power project (other than one owned or operated by the Federal Government) had been constructed, the United States, its permittees or licensees shall have the prior right to use such land for purposes of power development so applied for, licensed, permitted, or authorized and no compensation shall accrue to the mineral lessee or permittee for loss of prospective profits or for damages to improvements or workings, or for any additional expense caused the mineral lessee as a result of the taking of said land for power development purposes. It is agreed, however, that where the mineral lessee or permittee can make adjustments of his improvements to avoid undue interference with power development, he will be permitted to do so at his own expense. Furthermore, occupancy and use of the land by the mineral lessee or permittee shall be subject to such reasonable conditions with respect to the use of the land as may be prescribed by the Federal Power Commission for the protection of any improvements and workings constructed thereon for power development.

(2) If any of the land covered by this lease or permit is on the date of the lease or permit within a powersite classification or reservation which is not governed by the preceding paragraph, the lease or permit is subject to the express condition that operations under it shall be so conducted as not to interfere with the administration and use of the land for powersite purposes to a greater extent than may be determined by the Secretary of the Interior to be necessary for the most beneficial use of the land. In any case, it is agreed that where the mineral lessee or permittee can make adjustments to avoid undue interference with power development, he will be permitted to do so at his own expense.

**U.S. Department of the Interior
Bureau of Land Management
White River Field Office
220 E Market St
Meeker, CO 81641**

DECISION RECORD

PROJECT NAME: Blue Mountain Energy Coal Lease Readjustment COC-0126669-01

CATEGORICAL EXCLUSION NUMBER: DOI-BLM-CO-2012-0020-CX

DECISION

It is my decision to implement the Proposed Action, as mitigated in DOI-BLM-CO-2012-0020-CX, to recommend the readjustments of Blue Mountain Energy coal lease COC-0126669-01.

Mitigation Measures: See Attachment 4

COMPLIANCE WITH LAWS & CONFORMANCE WITH THE LAND USE PLAN

This decision is in compliance with the Endangered Species Act and the National Historic Preservation Act. It is also in conformance with the 1997 White River Record of Decision/Approved Resource Management Plan.

PUBLIC INVOLVEMENT

The BLM informed the public about this project by listing it on the online WRFO NEPA Register on 04/25/2012 and a copy of the completed Categorical Exclusion will be posted on the WRFO website.

RATIONALE

The Proposed Action is categorically excluded from further documentation under the National Environmental Policy Act (NEPA) in accordance with 516 DM 11.9, F-2. This categorical exclusion is appropriate in this situation because there are no extraordinary circumstances potentially having effects that may significantly affect the environment. The Proposed Action has been reviewed, and none of the extraordinary circumstances described in 43 CFR 46.215 apply.

ADMINISTRATIVE REMEDIES

Any appeal of this decision must follow the procedures set forth in 43 CFR Part 4. Within 30 days of the decision, a Notice of Appeal must be filed in the office of the Authorized Officer at

Decision Record- DOI-BLM-CO-110-2012-0020-CX

White River Field Office, 220 East Market St., Meeker, CO 81641 with copies sent to the Regional Solicitor, Rocky Mountain Region, 755 Parfet St., Suite 151, Lakewood, CO 80215, and to the Department of the Interior, Board of Land Appeals, 801 North Quincy St., MS300-QC, Arlington, VA, 22203. If a statement of reasons for the appeal is not included with the notice, it must be filed with the Interior Board of Land Appeals at the above address within 30 days after the Notice of Appeal is filed with the Authorized Officer.

SIGNATURE OF AUTHORIZED OFFICIAL: *Est M McCyl*
Acting Field Manager

DATE SIGNED: 4/27/2012