

**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 Application COC74813

ENVIRONMENTAL ASSESSMENT NUMBER: DOI-BLM-CO-110-2012-0023-EA

DECISION

It is my decision to implement the Proposed Action, as mitigated in DOI-BLM-CO-110-2012-0023-EA, authorizing the leasing of Federal Coal Lease by Application (LBA) COC74813 which encumbers 3,154.76 acres of Federal surface and coal resources. The LBA contains an estimated 21.3 million tons of deliverable coal.

Stipulations to be Applied as Mitigation Measures

Air Quality

1. Fugitive emissions resulting from all vehicles traveling on non-paved surfaces during all project phases would be controlled utilizing water, chemical suppression, or a combination of the two by applying frequently or as needed to the non-paved road surfaces and in accordance with any permit condition or approved fugitive dust control plan required by the Colorado Department of Public Health and Environment Air Pollution Control Division. Storage piles would be watered as necessary to limit wind erosion potential and reduce fugitive emissions.

Soil

2. All drilling activity shall cease when soils or road surfaces become saturated to a depth of three inches unless there are safety concerns or activities have prior approval by the Authorized Officer.
3. In order to achieve public land health standards for soils, erosion features such as rilling, gullyng, piping, and mass wasting on the surface disturbance or adjacent to the surface disturbance as a result of this action will be addressed immediately after observation by contacting the Authorized Officer and by submitting a plan to assure successful soil stabilization with best management practices to address erosion problems.
4. If salt is observed on the surface of soils during reclamation activities the Authorized Officer will be notified and a plan will be developed with approval of the BLM to improve reclamation on the site.
5. The release of any chemical, oil, petroleum product, produced water, or sewage, etc, (regardless of quantity) must be contained immediately, cleaned up as soon as possible, and reported by the project proponent to the Bureau of Land Management when beyond what could be expected for normal operations.

Vegetation

6. Reclamation plans with approved seed mixes will be developed for each site.
7. WRFO recommends the seed mix in Table 12. Seeding rates shown in the table are the drill seed rates and should be doubled and harrowed into the soil if broadcast seeding. The seed mix could be altered if it is determined that site specific conditions require a modification of the seed mix to promote successful reclamation.

Table 12. BLM Recommended Seed Mix

Common Name	Scientific Name	Pure Live Seed (PLS) lbs/acre	Variety
Thickspike wheatgrass	<i>Elymus lanceolatus</i>	3.0	Critana
Western wheatgrass	<i>Pascopyrum smithii</i>	3.0	Rosanna
Beardless bluebunch	<i>Pseudoroegneria spicata</i> <i>ssp. Inermis</i>	1.0	Whitmar
Bluebunch wheatgrass	<i>Pseudoroegneria spicata</i> <i>ssp. Spicata</i>	1.0	Antone
Slender wheatgrass	<i>Elymus trachycaulus</i>	4.0	Pryor
Pubescent wheatgrass	<i>Elytrigia intermedia</i>	1.0	Luna
Great Basin wildrye	<i>Leymus cinereus</i>	1.0	Trailhead
Bottlebrush squirreltail	<i>Elymus elymoides</i>	2.0	Toe Jam Creek
Indian ricegrass	<i>Achnatherum hymenoides</i>	2.0	Rimrock
Sheep fescue	<i>Festuca ovian</i>	0.2	Covar
Prairie junegrass	<i>Koeleria macrantha</i>	0.2	
Canby bluegrass	<i>Poa canbyi</i>	0.2	Canbar
Sandberg bluegrass	<i>Poa sandbergii</i>	0.2	
Alkali sacaton	<i>Sporobolus airoides</i>	0.1	
Green needlegrass	<i>Nassella viridula</i>	0.5	Lodorm
White yarrow	<i>Achillea millefolium</i>	0.1	Eagle Mountain
*Northern sweetvetch	<i>Hedysarum boreale</i>	1.0	
Lewis flax	<i>Linum lewisii</i>	0.4	

Invasive, Non-Native Species

8. Blue Mountain Energy will be required to manage weeds on areas disturbed for mining activities.
9. Pesticide Use Proposals (PUPs) will be submitted and approved by the WRFO prior to the use of any herbicides on BLM lands.
10. Herbicide use will be under the supervision of a certified pesticide applicator.
11. Pesticide Application Records (PARs) will be submitted to the WRFO at the end of each field season (October 31st). PARs are required to be filled out every day that herbicides are applied.

Special Status Animal Species

12. Surface use or disturbance that may adversely influence the subsurface integrity of prairie dog burrow systems or disrupt reproductive activities (April 1 through May 31) will be avoided as much as practical. This condition applies to all prairie dog towns, including those currently mapped within the following subdivisions:

Township 2 North, Range 101 West, Sixth Principal Meridian

Section 18: S½NESW, Lot3;

Section 21: S½NE, NWSE;

Section 22: SWNW, SESE;

Section 23: S½SW, SWSE;

Section 26: NE, E½NW, NESE;

Section 27: NENE, NESW.

Special Status Plant Species

13. Prior to any surface disturbing activity, all areas of disturbance shall be surveyed accordance with the WRFO special status plant species survey protocol.
14. Surface occupancy is not allowed within known populations of BLM sensitive plants (RMP NSO-09 exception would apply).
15. If no exceptions are granted to the NSO, a buffer of up to 100 meters, in addition to the NSO, would be implemented for BLM special status plant species.

Migratory Birds

16. Surface disturbing activities required for the development of surface features associated with lease development would be required to avoid, to the extent practicable, the core migratory bird nesting season (i.e., 15 May to 15 July).

Terrestrial Wildlife

17. The entire lease tract is subject to big game severe winter range timing limitations. No development activity is allowed from December 1 through April 30 (RMP exceptions and modifications apply TL-08).
18. A raptor survey will be required of activities (construction, drilling etc.) that are scheduled to take place during the raptor nesting season (generally February 1 – August 15) in those areas determined by WRFO to be subject to potential project-related disturbances. In the event an active nest is located in the course of survey, timing limitations and no-surface-occupancy provisions, consistent with RMP-approved raptor protection stipulations, would be applied to the authorization as Conditions of Approval.

19. Surface occupancy is not allowed within 200 meters (burrowing owl, red-tailed hawk) and 0.25 mile (ferruginous hawk) of identified raptor nests (RMP NSO-02 and NSO-03 exception and modification criteria apply). This no-surface-occupancy stipulation applies to the following legal subdivisions:

Township 2 North, Range 101 West, Sixth Principal Meridian

Section 17: S $\frac{1}{2}$ SESW;

Section 18: SESW, SWSE;

Section 19: NWNE, S $\frac{1}{2}$ NE, NENW, N $\frac{1}{2}$ NWSE;

Section 20: W $\frac{1}{2}$ NE, N $\frac{1}{2}$ NENW;

Section 21: NWSE;

Section 27: E $\frac{1}{2}$ SW, W $\frac{1}{2}$ SE.

20. No development activities are allowed within 0.25 (burrowing owl, red-tailed hawk) and 1 mile (ferruginous hawk) of special status raptor nests from February 1 through August 15 or until fledging and dispersal of young (RMP TL-3 and TL-04 exception and modification criteria apply). This timing limitation applies to the following lands:

Township 2 North, Range 101 West, Sixth Principal Meridian

Section 17: SWSW;

Section 18: S $\frac{1}{2}$ NESW, S $\frac{1}{2}$ N $\frac{1}{2}$ SE, SESE, Lot 4, Lot3;

Section 19: NENE, N $\frac{1}{2}$ SENW, Lot 1;

Section 20: E $\frac{1}{2}$ NE, N $\frac{1}{2}$ NWNW;

Section 21: SWNE, S $\frac{1}{2}$ NW, NESE;

Section 23: SESE;

Section 26: E $\frac{1}{2}$ NE, NESE;

Section 27: S $\frac{1}{2}$ NE, SENW, SWSW, E $\frac{1}{2}$ SE

Section 34: N $\frac{1}{2}$ N $\frac{1}{2}$.

Cultural Resources

21. This lease may be found to contain historic properties and/or resources protected under the National Historic Preservation Act (NHPA), American Indian Religious Freedom Act, Native American Graves Protection and Repatriation Act, E.O.13007, or other statutes and executive orders. A cultural resource survey of the lease area is required to determine if any of the above mentioned historic properties and/or resources are contained within the lease. The BLM will not approve any ground disturbing activities that may affect any such properties or resources until it completes its obligations under applicable requirements of the NHPA and other authorities. The BLM may require modification to exploration or development proposals to protect such properties, or disapprove any activity that is likely to result in adverse effects that cannot be successfully avoided, minimized or mitigated.
22. The holder is responsible for informing all persons who are associated with the project that they will be subject to prosecution for knowingly disturbing archaeological sites or for collecting artifacts.
23. If any archaeological materials are discovered as a result of operations under this authorization, activity in the vicinity of the discovery will cease, and the BLM WRFO Archaeologist will be notified immediately. Work may not resume at that location until approved by the AO. The holder will make every effort to protect the site from further impacts including looting, erosion, or other human or natural damage until BLM

determines a treatment approach, and the treatment is completed. Unless previously determined in treatment plans or agreements, BLM will evaluate the cultural resources and, in consultation with the State Historic Preservation Office (SHPO), select the appropriate mitigation option within 48 hours of the discovery. The holder, under guidance of the BLM, will implement the mitigation in a timely manner. The process will be fully documented in reports, site forms, maps, drawings, and photographs. The BLM will forward documentation to the SHPO for review and concurrence.

24. Pursuant to 43 CFR 10.4(g), the holder must notify the AO, by telephone and written confirmation, immediately upon the discovery of human remains, funerary items, sacred objects, or objects of cultural patrimony. Further, pursuant to 43 CFR 10.4(c) and (d), the holder must stop activities in the vicinity of the discovery and protect it for 30 days or until notified to proceed by the AO.
25. Thirteen historic properties (5RB1020, 5RB1029, 5RB1160, 5RB1175, 5RB6754, 5RB7286, 5RB7287, 5RB7289, 5RB7291, 5RB7296, 5RB7304, 5RB7305, 5RB7307, and 5MF7622) are required to be avoided by all surface disturbing activities.

Paleontological Resources

26. The holder is responsible for informing all persons who are associated with the project operations that they will be subject to prosecution for disturbing or collecting vertebrate fossils, collecting large amounts of petrified wood (over 25lbs./day, up to 250lbs./year), or collecting fossils for commercial purposes on public lands.
27. Any excavations into the underlying native sedimentary stone must be monitored by a permitted paleontologist. The monitoring paleontologist must be present before the start of excavations that may impact bedrock.
28. If any paleontological resources are discovered as a result of operations under this authorization, the operator/holder or any of his agents must stop work immediately at that site, immediately contact the BLM Paleontology Coordinator, and make every effort to protect the site from further impacts, including looting, erosion, or other human or natural damage. Work may not resume at that location until approved by the AO. The BLM or designated paleontologist will evaluate the discovery and take action to protect or remove the resource within 10 working days. Within 10 days, the operator will be allowed to continue construction through the site, or will be given the choice of either (a) following the Paleontology Coordinator's instructions for stabilizing the fossil resource in place and avoiding further disturbance to the fossil resource, or (b) following the Paleontology Coordinator's instructions for mitigating impacts to the fossil resource prior to continuing construction through the project area.

Visual Resources

29. All above ground facilities shall be painted with a color from the BLM Standard Environmental Color Chart June 2004, to blend in with the surrounding environment. Facilities shall be painted within 6 months of installation and be regularly maintained.
30. All disturbed areas will be contoured to blend with the natural topography. Blending is defined as reducing form, line, shape, and color contrast with the disturbing activity.

Hazardous Or Solid Wastes

31. Construction sites and all facilities shall be maintained in a sanitary condition at all times; waste materials shall be disposed of promptly at an appropriate waste disposal site. "Waste" means all discarded matter including, but not limited to, human waste, trash, garbage, refuse, oil drums, petroleum products, ashes, and equipment.

Forest Management

32. All trees removed in the process of construction shall be purchased from the BLM. Before any ground disturbance occurs, a vegetative material permit must be purchase from the BLM for any juniper woodland to be removed. Trees should first be used in reclamation efforts and then any excess material made available for firewood or other uses.
33. Woody material will be chipped and stockpiled for later use in reclamation. Woods chips can be incorporated into the topsoil layer to add an organic component to the soil to aid in reclamation success.
34. Woody materials, not used for woods chips, required for reclamation shall be removed in whole with limbs intact and shall be stockpiled along the margins of the authorized use area separate from the topsoil piles. Once the disturbance has been re-contoured and reseeded, stockpiled woody material shall be scattered across the reclaimed area where the material originated. Redistribution of woody debris will not exceed 20-30 percent ground cover. Limbed material shall be scattered across reclaimed areas in a manner that avoids the development of a mulch layer that suppresses growth or reproduction of desirable vegetation. Woody material will be distributed in such a way to avoid large concentrations of heavy fuels and to effectively deter vehicle use.
35. Trees that must be removed for construction and are not required for reclamation shall be cut down to a stump height of 6 inches or less prior to other heavy equipment operation. These trees shall be cut in four foot lengths (down to 4 inches diameter) and placed in manageable stacks immediately adjacent to a public road to facilitate removal for company use or removal by the public.

Rangeland Management

36. Any range improvements damaged during activities associated with mining will be repaired to working condition as soon as possible after mining activities have been completed and there is no risk of re-damaging the improvement.

Realty Authorizations

37. All activities shall comply with all applicable local, state, and federal laws, statutes, regulations, standards, and implementation plans. This would include acquiring all required State, Moffat, and Rio Blanco Counties permits, effectively coordinating with existing ROW holders, and implementing all applicable mitigation measures required by each permit.

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.

ENVIRONMENTAL ANALYSIS AND FINDING OF NO SIGNIFICANT IMPACT

The Proposed Action was analyzed in DOI-BLM-CO-2012-0023-EA and it was found to have no significant impacts, thus an EIS is not required.

PUBLIC INVOLVEMENT

External scoping was conducted by posting information about this project on the WRFO's on-line National Environmental Policy Act (NEPA) register web site <http://www.blm.gov/co/st/en/fo/wrfo/index.html> on 12/09/2011, along with a press release on the same date asking for public comments on the proposed lease by application. Three commenters responded to the scoping announcement: Wild Earth Guardians, Colorado Parks and Wildlife (CPW), and one individual.

On September 5, 2012, the BLM issued a press release announcing the availability of the preliminary Environmental Assessment (EA) for a 30 day public comment period ending October 5, 2012. Notification of a public hearing published in the Federal Register (Vol. 77, No. 203 / Friday, October 19, 2012, 64348) and in the Craig Daily Press Newspaper extended the date for written comments until November 20, 2012. The public hearing was held on November 28, 2012, to receive comments on the EA, maximum economic recovery, determination of Fair Market Value, and the method of mining. Eighteen members of the public attended the hearing and seven public comments were received. An additional 47 commenters responded by email or by mail prior to the close of the comment period. The comments and BLM's responses are tabulated in Appendix B of the EA.

RATIONALE

The proposed 3,154.76 acre coal LBA would make additional federal coal reserves available for competitive leasing, provide an opportunity to extend the life of the mine, and be consistent with BLM management goals and prescriptions for the area. This decision balances recovery of the coal resource with protection of other resources and their uses consistent with the applicable laws, regulations, BLM policy and Resource Management Plan goals and objectives, standards and guidelines, and multiple-use decisions. The coal lease application was submitted under the Mineral Leasing Act of 1920, the Federal Land Policy and Management Act of 1976 (FLPMA), the Federal Coal Leasing Amendments Act of 1976 (FCLAA), and the implementing regulations found at 43 CFR 3425.

The following were also taken in consideration for the decision to lease the LBA:

- The Deserado Mine is a captive mine and all produced and processed coal is shipped to the Bonanza Power Plant utilizing existing infrastructure.
- The Deserado Mine has supplied the Bonanza Power Plant for more than 27 years and if the LBA is leased and approved for mining, BME's Deserado Mine would continue to supply the Bonanza Power Plant through 2032. A rejection of offering the lease would not cease currently approved mining operations. If the BLM rejects offering the lease the mine would cease operations only after the current mine reserves are depleted. The

inability of BME to supply coal to Bonanza Power Plant would not cause electric generators to stop burning coal. Operation of the existing coal-burning facility would continue utilizing alternative coal sources from Colorado, Utah, or Wyoming. This would continue until either cost or regulatory requirements make them ineffective, or until they are replaced by an alternative electric generator.

- If the BLM rejects LBA it is unlikely these coal reserves would be recovered at a future time since there is no logical competitive interest based upon utilization of the lands or mining of the deposits. This would create a potential coal bypass situation with the effective loss of approximately 23.8 million tons of deliverable coal. This includes the loss of LBA coal resources and approximately 2.5 million tons of deliverable coal of bypass coal on existing leases.
- The BLM coal leasing program encourages the development of domestic coal reserves and the reduction of the United States' dependence on foreign sources of energy. The BLM recognizes that the extraction of coal is currently necessary in order to meet the nation's energy needs. A primary goal of the National Energy Policy is to add energy supplies from diverse sources including domestic oil, gas, and coal. Private development of Federal coal reserves is integral to the BLM coal leasing program under the authorities of the Mineral Leasing Act of 1920, the Federal Land Policy and Management Act of 1976 (FLPMA) and the Federal Coal Leasing Amendments Act of 1976 (FCLAA).
- The leasing and subsequent mining of Federal coal reserves would provide the United States, the State of Colorado, and Rio Blanco County with income in the form of lease bonus payments, lease royalty payments, and tax payments. It would also continue to provide local employment of more than 160 individuals. Production of Federal coal also provides the public with a supply of cost-efficient, low sulfur coal for power generation.
- The potential for regulation of GHG emissions as an air pollutant is recognized in this decision. Should such regulation be put in place, there may be an effect on coal demand depending on how the regulatory actions affect the demand for electric power and the mix of methods used to produce electricity. Effects to coal demand would be reflected through the coal market, coal pricing, and supply. If demand decreases, it is expected that less efficient coal producers, or those with reserves having less desired coal characteristics, may lose customers.

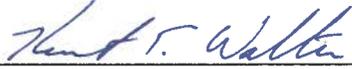
The decision to allow the Proposed Action does not result in any undue or unnecessary environmental degradation and is in conformance with the 1997 White River Record of Decision and Approved Resource Management Plan. Analysis of the Proposed Action as mitigated has concluded that there are no significant negative impacts and it meets Colorado Standards for Public Land Health.

ADMINISTRATIVE REMEDIES

Administrative remedies may be available to those who believe they will be adversely affected by this decision. Appeals may be made to the Office of Hearings and Appeals, Office of the Secretary, U.S. Department of Interior, Board of Land Appeals (Board) in strict compliance with

the regulations in 43 CFR Part 4. Notices of appeal must be filed in this office within 30 days after publication of this decision. If a notice of appeal does not include a statement of reasons, such statement must be filed with this office and the Board within 30 days after the notice of appeal is filed. The notice of appeal and any statement of reasons, written arguments, or briefs must also be served upon the Regional Solicitor, 755 Parfet Street, Suite 151, Lakewood, CO 80215. Appeal and stay procedures are outlined in Form 1842-1.

The effective date of this decision (and the date initiating the appeal period) will be the date this notice of decision is posted on BLM's internet website.

SIGNATURE OF AUTHORIZED OFFICIAL: 
Field Manager

DATE SIGNED: 02/01/2013

