

**United States**  
**Department of the Interior**  
**Bureau of Land Management**

*Miles City Field Office*

**Spring Creek**  
**Groundwater Monitor Well**  
**ROW**

Categorical Exclusion (CX)  
DOI-BLM-MT-C020-2013-0170-CX

*For Further Information Please Contact:*

Bureau of Land Management  
Miles City Field Office  
111 Garryowen Road  
Miles City, Montana 59301  
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BLM



UNITED STATES DEPARTMENT OF INTERIOR  
BUREAU OF LAND MANAGEMENT

*Miles City Field Office  
111 Garryowen Road  
Miles City, Montana 59301*

**CATEGORICAL EXCLUSION REVIEW AND APPROVAL**

**A. Background**

BLM Office: Miles City Field Office Serial/Case File No.: MTM-105821

NEPA Number (if applicable): DOI-BLM-MT-C020-2013-0170-CX

Proposed Action Title/Type: SCC Groundwater Monitoring Well AD-16 with Access Road Right-of-Way

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Location of Proposed Action (w/county): Big Horn County–T8S, R39E, Sec. 35, SE¼ P.M.M.

Description of Proposed Action: The proposed action is to issue a Title V FLPMA right-of-way (ROW) (MTM-105821) to Spring Creek Coal, LLC (SCC) to install and operate Groundwater Monitoring Well AD-16 and to use an existing two-track trail for associated access to the well site on federal Bureau of Land Management administered surface (BLM) in the SW¼SE¼, Section 35, T8S, R39E, Big Horn County, P.M.M. (See attached map.) The access road and well site (formerly Coal Exploration Well Site 1145C, located in the NE¼SW¼SE¼) were used and drilled under SCC's Federal Exploration License MTM-101688 in 2012 and proved to be a good location for installation of a monitoring well in the Anderson or Dietz coal seams. The coal exploration project was cleared under a Class III Cultural Resource Inventory and covered the proposed access road and well site.

The proposed monitoring well and associated access is vital for baseline characterization of groundwater in the coal seams associated with newly proposed Federal LBA's and Lease modifications and operational monitoring related to existing federal coal leases operated by SCC. The monitoring of the static water level is in support of mining and exploration of federally owned coal reserves associated with current leases to SCC serialized as MTM-069782, MTM-88405, MTM-83088, and MTM-94378. SCC has recently nominated federal coal for a Lease By Application (LBA) with the intent of expanding production which necessitates additional environmental monitoring. State and Federal environmental monitoring requirements, combined with geologic constraints dictate the proposed location of the monitoring well. The proposed access is the least invasive and most efficient route to the well site.

After initial installation of the well, access will generally be only on a quarterly basis, therefore no additional improvements to the two-track trail are considered to be necessary. Static water levels and quality samples may both be collected at the site. SCC is attempting to keep surface disturbance associated with access and the well to a minimum by using these existing facilities.

Access across BLM land would commence on the west line of the East half of Section 35 and run approximately 1,156' east to the proposed well location. The proposed two-track access road

is 12 feet wide and 1,156 feet long, consisting of .32 acre, more or less, and the well site is approximately 50' x 50', consisting of approximately .06 acre, for a total of .38 acre for the total ROW.

Equipment proposed to be utilized in the installation of monitoring well AD-16 is the same required for the coal exploration program currently licensed by Spring Creek under Federal Exploration Licenses MTM101687 and MTM 101168 and includes the following listed items.

<b>Equipment Type</b>	<b>Size</b>	<b>Number</b>	<b>Capacity</b>
1980 Midway 1500 HD Drill Rig	57,000 lbs	1	N/A
1986 Autocar Misc. Truck	19,500 Lbs Dry	1	1,500 Gal.
2009 MAC Water Truck	20,000 Lbs Dry	1	3,600 Gal
2010Ford F250	4,800 Lbs	2	N/A
2007 H&H Cargo Trailer	1,000 Lbs	1	4 ton
2005 New Holland Tractor	2,500 Lbs	1	N/A

Well Construction Details follow;

- 1) Road, or trail construction will not be required to access the proposed well site. Access will be restricted to times of no danger to soil compaction.
- 2) The rotary Drill Rig will travel to the site on existing improved ranch and two-track roads accompanied by one water truck, a drilling crew 4-wheel drive pickup truck, a second geologist's pickup truck and either a cargo trailer or water trailer. Other than use of crew pickups, access to the site is planned and anticipated to be limited to a one time-in/one time-out scenario. However, drilling conditions may require several days to complete and thus multiple daily pickup truck trips in/out may be necessary.
- 3) No mud pit will be required, therefore working area around the well will be approximately 50'x50' with actual surface disturbance limited to an area approximately 15'x15' where the rig pierces the surface of the earth and cuttings are placed.
- 4) The well will be drilled with a 6¼-inch rotary bit to a depth of approximately 500 feet and cased, over-reamed at the surface for installation of an 8-inch steel surface casing to protect a 5-inch perforated PVC inner casing, gravel packed through the water producing zone and sealed with bentonite topped by a 2 foot by 2 foot concrete surface seal to protect the annulus from contamination by surface runoff.
- 5) Drill cuttings will then be removed or spread on the ground surface to a thickness no greater than ½-inch and a removable cap will be placed to protect the well head. Residual surface disturbance within the sagebrush-grassland community associated with installation will be seeded and reclaimed in accordance with the Spring Creek Coal LLC mining permit C-1979012.

The concrete well site pad, when finished would be approximately 2' x 2'. Monitoring Well AD-16 is proposed for installation during the 2013 field season with anticipated useful life of 25

years. Surface elevation is approximately 4,015 feet above mean sea level and the site is located at approximately Lat: 45.084479, Long: -106.91490.

The proposed access route and monitoring well and associated disturbance would be covered in the SCC's coal mining permit reclamation bond associated with demolition and reclamation of all mine related structures and disturbances. Reclamation oversight is provided by the Montana Department of Environmental Quality (MDEQ) and the U.S. Office of Surface Mining (OSM).

No hazardous material would be used, produced, or stored in connection with the proposed ROW. The ROW be issued for a term of 20 years (with an expiration date of December 31, 2033) and it would be renewable thereafter for 10 year terms as necessary as SCC requested. Under the Mine Plan currently approved, end of mining is anticipated to be 2030 with reclamation continuing in the area until 2035. Montana requires a 10 year bond release period. Therefore, use of the subject lands would continue through at least 2035-2040. Should SCC successfully acquire additional Federal Coal Lease reserves, mining may be extended and therefore additional renewals of the grant may be requested.

The standard stipulations for cultural and/or paleontological resource protection and hazardous materials stipulation would be made a part of ROW Grant MTM-105821, as would the standard stipulation that all activities associated with the ROW would be conducted within the authorized limits of the grant. There would be no construction or routine maintenance when the soils are too wet. The applicant would be responsible for weed control on disturbed areas within the limits of the ROW. The project would be completed in compliance with the applicant's application/plan of development and MT DEQ and OSM/SMCRA requirements as described and approved under Spring Creek Coal LLC's current Mining Permit C 1979012. Ninety days prior to termination of the ROW, the holder shall contact the authorized officer to arrange a joint inspection of the ROW and to agree on an acceptable termination (and rehabilitation) plan. The ROW would be granted pursuant to Title V of the Federal Land Policy and Management Act of October 21, 1976 (90Stat. 2776; 43 U.S.C. 1761) and be subject to the terms and conditions in 43 CFR 2800 and to the attached stipulations and the applicant's POD. SCC LLC is subject to processing and monitoring fees, as provided for by regulations found at 43 CFR 2804.14 and 2805.16 and subject to paying rental as provided for by regulations found at 43 CFR 2806. The ROW would be monitored for use and before renewal or closure.

## **B. Land Use Plan Conformance**

Land Use Plan Name: Powder River R. A. RMP/EIS ROD

Date Approved/Amended: Approved March 15, 1985

The proposed action is in conformance with the applicable LUP because it is specifically provided for in the following LUP decision: Page 4 of the ROD states that, "Rights-of-way applications will continue to be approved on a case-by-case basis with appropriate stipulations. Applicants are encouraged to locate new facilities within existing rights-of-way." The proposed action has been reviewed for conformance with this plan and its terms and conditions as required by 43 CFR 1610.5

**C: Compliance with NEPA:**

The Proposed Action is categorically excluded from further documentation under the National Environmental Policy Act (NEPA) in accordance with 516 DM 11.9E (16) for issuance of rights-of-way for the use of existing facilities, improvements, or sites for the same or similar purposes.

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, as documented below, none of the extraordinary circumstances described in 516 DM2 apply.

<b>Extraordinary Circumstances</b>		
<b>The project would:</b>		
1. Have significant impacts on public health or safety.		
<b>Yes</b>	<b>No</b>  <b>X</b>	<p><b>Rationale:</b> <i>The project would not have significant impacts on public health and safety. No health or safety concerns relative to the general public are considered to be an issue during installation or use as there is no public access to the site. Contractors completing the well and employees conducting monitoring activities thereafter utilize personal Protective Equipment. All personnel operating on site are MSHA trained and certified. The proposed project would be a benefit to public health and safety by constantly and consistently monitoring the groundwater.</i></p> <p><b>pw 06/13/13</b></p>
2. 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 (Executive Order 11990); floodplains (Executive Order 11988); national monuments; migratory birds; and other ecologically significant or critical areas.		
<b>Yes</b>	<b>No</b>  <b>X</b>	<ul style="list-style-type: none"> <li>• <b>Rationale:</b> <i>Impacts would not be significant as the proposed action is to authorize the use of an existing two-track road and well site under Title V FLPMA right-of-way. The existing two-track road and well site were previously analyzed under DOI-BLM-MT-C020-2011-0235-DNA and the related documents which were:</i></li> <li>• <u>MT-020-2006-058 (Environmental Assessment)</u>, date approved: <u>10/27/05</u>; for MTM94825 was written specifically for proposed exploration drilling in T.8 S., R. 39 E. and included some of the very lands proposed for drilling in the subject proposed Exploration License.</li> <li>• <u>MT-020-2006-419 (Environmental Assessment)</u>, date approved: <u>09/08/06</u>; for MTM94825 was written specifically for proposed exploration drilling in T. 8 &amp; 9 S., R. 39 E. and T. 8 &amp; 9 S., R. 40 E. to amend two existing licenses, MTM93477 (2004) and MTM94825 (2005), and for a new license MTM95732 outside of existing permitted areas. Those proposed lands included some (many) of the very lands proposed for drilling in the subject</li> </ul>

		<p>proposed Exploration License.</p> <ul style="list-style-type: none"> <li>• <u>Cultural Report MT-020-10-201(c). Class III Cultural Resource Inventory of Nine Drill Locations at Spring Creek Coal Mine's 2011 South Exploration License (2) Bog Horn County, Montana</u>, (by: GCM Services, Inc., August 9, 2011).</li> </ul> <p><i>Environmental impacts have been analyzed on numerous occasions, including the above mentioned documents, for the SCC mining operation and are summarized in the state and federal mining permits held by SCC, LLC. Characterization of regional groundwater conditions, both ambient and during active mining are a requisite of these comprehensive studies. There are no Areas of Critical Environmental Concern, Wilderness Study Areas, Monuments, and other areas with special designation involved with this proposal. The proposed action would not occur in a floodplain or wetland area. The act of authorizing the existing road and well site would not affect migratory birds, as the road and well site are already in place, so there would be no additional disturbance outside of the proposed project area. pw 06/13/13</i></p>
3. Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA section 102 (2) (E)].		
<b>Yes</b>	<b>No</b> <b>X</b>	<b>Rationale:</b> <i>No controversial environmental effects or unresolved conflicts. State and Federal environmental monitoring requirements, combined with geologic constraints dictate the proposed location of the monitoring well. The proposed access is the least invasive and most efficient route to the well site. pw 06/13/13</i>
4. Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.		
<b>Yes</b>	<b>No</b> <b>X</b>	<b>Rationale:</b> <i>No highly uncertain and potentially significant environmental effects or unique or unknown environmental risks. pw 06/13/13</i>
5. Establish a precedent for future action or represent a decision in principal about future actions with potentially significant environmental effects.		
<b>Yes</b>	<b>No</b> <b>X</b>	<b>Rationale:</b> <i>This action is not connected to another action that would require further environmental analysis nor will it set a precedent for future actions that would normally require environmental analysis. pw 06/13/13</i>
6. Have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects.		
<b>Yes</b>	<b>No</b> <b>X</b>	<b>Rationale:</b> <i>This action is required by previously analyzed and authorized projects, specifically coal mining. It does not have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects. pw 06/13/13</i>
7. Have significant impacts on properties listed, or eligible for listing, on the National Register of Historic Places as determined by either the bureau or office.		

Yes	No  X	<p><b>Rationale:</b> <i>Confirm that cultural surveys have been completed; the appropriate data bases have been reviewed; and appropriate concurrence from SHPO and tribes have been received indicating that significant impacts are not expected.</i></p> <p>The drill hole and access were inventoried in 2011 as part of the southern coal exploration program for the Spring Creek Mine. No cultural resources were located in the 2011 inventory (See BLM Cultural Resources Report MT-020-13-221). The proposed action would have no effect to cultural properties listed on or eligible for listing on the National Register of Historic Places</p> <p>DM 06/16/13</p>
8. Have significant impacts on species listed, or proposed to be listed, on the List of Endangered or Threatened Species, or have significant impacts on designated Critical Habitat for these species.		
Yes	No X	<p><b>Rationale:</b> There is no habitat for any threatened or endangered species within the project area. <i>dct 06/14/2013</i></p>
9. Violate a Federal law, or a State, local or tribal law or requirement imposed for the protection of the environment.		
Yes	No X	<p><b>Rationale:</b> <i>No laws are being violated by this action; in fact the groundwater monitoring is required by Federal and State laws. pw 6/13/13</i></p>
10. Have a disproportionately high and adverse effect on low income or minority populations (Executive Order 12898).		
Yes	No X	<p><b>Rationale:</b> <i>Does not have a disproportionately high and adverse effect on low income or minority populations. Continuing operations at Spring Creek Coal Mine helps to sustain a healthy working class and low unemployment rate in nearby communities. pw 06/13/13</i></p>
11. Limit access to and ceremonial use of Indian sacred sites on Federal lands by Indian religious practitioners or significantly adversely affect the physical integrity of such sacred sites (Executive Order 13007).		
Yes	No  X	<p><b>Rationale:</b> <i>Consultation with tribes regarding Indian sacred sites must take place</i></p> <p>The proposed action is an existing coal mine with limited public access. The proposed action would not grant new access and use or deny access and use with the appropriate contacts. No cultural sites were located during the Class III Cultural Inventory so the physical integrity of any sacred site would not be impacted.</p> <p>DM 06/16/13</p>
12. 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 (Federal Noxious Weed Control Act and Executive Order 13112).		
<b>Yes</b>	<b>No</b> <b>X</b>	<b>Rationale:</b> <i>The proposed action will not contribute to the introduction or spread of noxious weeds as the road and well site already exist and under the Title V FLPMA ROW, SCC would be responsible for weed control within the authorized area. pw 06/13/13</i>

Shane Findlay  
 Supervisory Land Use Specialist  
 Division of Non-Renewable Resources

6/18/2013  
 Date

\_\_\_\_\_  
 Environmental Coordinator

\_\_\_\_\_  
 Date

Decision Record for Categorical Exclusion  
SCC Groundwater Monitoring Well AD-16 with Access Road ROW  
DOI-BLM-MT-C020-2013-0170-CX

Decision: I have made the decision to issue a Title V FLPMA right-of-way (ROW) (Serial Number MTM-105821) to Spring Creek Coal, LLC (SCC) to install and operate Groundwater Monitoring Well AD-16 and to use an existing two-track trail for associated access to the well site on federal Bureau of Land Management administered surface (BLM) in the SW<sup>1</sup>/<sub>4</sub>SE<sup>1</sup>/<sub>4</sub>, Section 35, T8S, R39E, Big Horn County, P.M.M. Access across BLM land will commence on the west line of the East half of Section 35 and run approximately 1,156' east to the proposed well location. The two-track access road is 12 feet wide and 1,156 feet long, consisting of .32 acre, more or less, and the well site is approximately 50' x 50', consisting of approximately .06 acre, for a total of .38 acre for the total ROW. The two-track access road and well site location is shown in the attached map. The ROW will be issued for a term of 20 years and be renewable thereafter for 10 year terms. The SCC ROW grant MTM-105821 will be issued under the authority of Title V of the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2776; 43 U.S.C. 1761) and subject to the terms and conditions in 43 CFR 2800, the application, mitigations as mentioned in the plan of development, and subject to the attached stipulations.

Rational for Decision: The proposed action meets the criteria for a categorical exclusion under 516 DM 11.9E (16), and none of the exceptions in 516 DM 2 apply. Further the action is in conformance with the Powder River R.A. RMP/EIS, which was approved March 15, 1985.

I considered the proposed action and associated stipulations which will be included in the right-of-way and which are attached below. There is no potential for significant impacts. Use of this CX is appropriate and I have decided to implement this action.

**D: Signature**

Authorizing Official: \_\_\_\_\_ Date: \_\_\_\_\_  
(Signature)

Name: Todd D. Yeager

Title: Field Manager – Miles City Field Office

**Administrative Review or Appeal Opportunities**

A BLM decision to issue a ROW may be appealed under regulations in 43 CFR 2801.10 in accordance with part 4 of 43 CFR. A BLM decision affecting a ROW application carries the “full force and effect” of the decision. Under full force and effect the decision can be implemented immediately even if the decision is appealed to the IBLA. An affected party has the opportunity to file a petition for a stay with an appeal to the IBLA. The decision to issue a ROW in full force and effect requires information on petitions for stay to be included with the decision notification.

The decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR, Part 4 and information on BLM Form 1842-1. If an appeal is taken, the notice of appeal must be filed in the Miles City Field Office at 111 Garryowen Road, Miles City, Montana 59301 within 30 days from receipt of the decision issuing the decision. The appellant has the burden of showing that the decision appealed from is in error.

If a petition (request) is filed pursuant to regulation 43 CFR 2881.10 for a stay (suspension) of the effectiveness of the decision during the time that the appeal is being reviewed by the Board, the petition for a stay must accompany the notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the notice of appeal and petition for a stay must also be submitted to each party named in the decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with the Miles City Field Office. If a stay is requested, the requester has the burden of proof to demonstrate that a stay should be granted.

#### Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards:

- (1) The relative harm to the parties if the stay is granted or denied,
- (2) The likelihood of the appellant's success on the merits,
- (3) The likelihood of immediate and irreparable harm if the stay is not granted, and
- (4) Whether the public interest favors granting the stay.

#### **Contact Person**

For additional information concerning this CX review and decision, contact:

Pam Wall, Realty Specialist  
BLM – Miles City Field Office  
111 Garryowen Road  
Miles City, Montana 59301  
406-233-2846

## STIPULATIONS:

- a. This grant is issued subject to the holder's compliance with the mitigations set forth in the application/plan of development.
- b. Any cultural and/or paleontological resource (historic or prehistoric site or object) discovered by the holder, or any person working on his behalf, on public or Federal land shall be immediately reported to the authorized officer. Holder shall suspend all operations in the immediate area of such discovery until written authorization to proceed is issued by the authorized officer. An evaluation of the discovery will be made by the authorized officer to determine appropriate actions to prevent the loss of significant cultural or scientific values. The holder will be responsible for the cost of evaluation and any decision as to proper mitigation measures will be made by the authorized officer after consulting with the holder.
- c. The holder shall comply with all applicable Federal laws and regulations existing or hereafter enacted or promulgated. In any event, the holder(s) shall comply with the Toxic Substances Control Act of 1976, as amended (15 U.S.C. 2601, et seq.) with regard to any toxic substances that are used, generated by or stored on the right-of-way or on facilities authorized under this right-of-way grant. (See 40 CFR, Part 702-799 and especially, provisions on polychlorinated biphenyls, 40 CFR 761.1-761.193.) Additionally, any release of toxic substances (leaks, spills, etc.) in excess of the reportable quantity established by 40 CFR, Part 117 shall be reported as required by the Comprehensive Environmental Response, Compensation and Liability Act of 1980, Section 102b. A copy of any report required or requested by any Federal agency or State government as a result of a reportable release or spill of any toxic substances shall be furnished to the authorized officer concurrent with the filing of the reports to the involved Federal agency or State government.
- d. The holder shall conduct all activities associated with the construction, operation, and termination of the right-of-way within the authorized limits of the right-of-way.
- e. No construction or routine maintenance activities shall be performed during periods when the soil is too wet to adequately support construction equipment. If such equipment creates ruts in excess of four (4) inches deep, the soil shall be deemed too wet to adequately support construction equipment.
- f. The holder shall be responsible for weed control on disturbed areas within the limits of the right-of-way. The holder is responsible for consultation with the authorized officer and/or local authorities for acceptable weed control methods (within the limits imposed in the grant stipulations).
- g. In the event that the public land underlying the right-of-way (ROW) encompassed in this grant, or a portion thereof, is conveyed out of Federal ownership and administration of the ROW or the land underlying the ROW is not being reserved to the United States in the patent/deed and/or the ROW is not within a ROW

corridor being reserved to the United States in the patent/deed, the United States waives any right it has to administer the right-of-way, or portion thereof, within the conveyed land under Federal laws, statutes, and regulations, including the regulations at 43 CFR Part 2800, including any rights to have the holder apply to BLM for amendments, modifications, or assignments and for BLM to approve or recognize such amendments, modifications, or assignments. At the time of conveyance, the patentee/grantee, and their successors and assigns, shall succeed to the interests of the United States in all matters relating to the right-of-way, or portion thereof, within the conveyed land and shall be subject to applicable State and local government laws, statutes, and ordinances. After conveyance, any disputes concerning compliance with the use and the terms and conditions of the ROW shall be considered a civil matter between the patentee/grantee and the ROW Holder.

- h. Ninety days prior to termination of the right-of-way, the holder shall contact the authorized officer to arrange a joint inspection of the right-of-way. This inspection will be held to agree on an acceptable termination (and rehabilitation) plan. This plan shall include, but is not limited to, removal of facilities, drainage structures, or surface material, recontouring, topsoiling, and/or seeding. The authorized officer must approve the plan in writing prior to the holder's commencement of any termination activities.

**SCC Access Road and Well Site ROW MTM-105821  
T8S, R39E, Section 35, SW¼SE¼, P.M.M., Big Horn County, Montana**

