UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

Farmington District
Farmington Field Office
6251 N College Blvd., Ste. A
Farmington, NM 87402

DECISION RECORD
for the
El Segundo Mine
Lease By Application

NEPA No. DOI-BLM-NM-F010-2013-0139-EA

I. Decision

I have decided to select the Proposed Action as mitigated, for implementation as described in the January 2014 *Environmental Assessment – El Segundo Mine Lease By Application*. Based on my review of the Environmental Assessment (EA) and project record, I have concluded that the Proposed Action as mitigated, was analyzed in sufficient detail to allow me to make an informed decision. I have selected this alternative because the proposed treatments will provide the opportunity to satisfy the need for the action as established by the Bureau of Land Management's responsibility under the Mineral Leasing Act, the Federal Coal Leasing Amendment Act and the Surface Mining Control and Reclamation Act.

II. Finding of No Significant Impact

I have reviewed the direct, indirect and cumulative effects of the proposed activities documented in the EA for the El Segundo Mine Lease By Application. I have also reviewed the project record for this analysis. The effects of the proposed action and alternative are disclosed in the Alternatives and Environmental Consequences sections of the EA. I have determined that mining of federal coal resources, and subsequent reclamation, to develop federal mineral resources as established by the Bureau of Land Management's responsibility under the Mineral Leasing Act, the Federal Coal Leasing Amendment Act and the Surface Mining Control and Reclamation Act, as described in the EA, will not significantly affect the quality of the human environment. Accordingly, I have determined that the preparation of an Environmental Impact Statement is not necessary.

III. Other Alternatives Considered

No Action Alternative - Under the No Action Alternative, the application would be denied and no mining would take place in the Project Area. However, up to 163 acres of the Project Area would be disturbed by activities related to mining in adjacent permitted areas. These activities include development and eventual reclamation of pit walls in adjacent mined areas and construction of diversions and sediment ponds (section 2.1). This alternative would not preclude surface disturbance in the proposed Project Area, as a result of coal mining activities in adjacent areas. In addition, this alternative would allow a coal resource to be permanently by-passed, effectively rendering unmineable the coal in Section 34, Township 17 N, Range 9 W (NMPM), and thereby negating the opportunity for development of federal coal reserves as established by the Bureau of Land Management's responsibility under the Mineral Leasing Act and Federal Coal Leasing Amendment Act.

Lease Sale for a New Stand-Alone Mine Alternative – As discussed in Chapter 1 of the EA, the LBA process is a competitive sealed-bid process, which is open to the public. Though the LBA coal tracts are nominated for leasing by companies with an interest in acquiring them, the sale of coal is competitive and not restricted to the company nominating the lease. If the contract were won by a bidder other than Peabody Natural Resources Company (PNRC), a new mine would be established to develop the coal resources, requiring considerable costs associated with constructing new facilities (e.g., roads, offices,

shops, coal processing facilities, rail spur) and collecting extensive baseline data. This alternative is not considered economically feasible because the cost of obtaining access agreements and developing new mine infrastructure would make it difficult to recover investments due to the relatively small reserve base. Additionally, PNRC would be unlikely to grant access to lands it owns. This alternative would result in greater environmental impacts associated with establishing a new mine. This alternative was considered, but eliminated from detailed analysis.

Delaying Lease Sale Alternative – Postponing the sale of the El Segundo LBA tract was also considered. Bypassing the coal in Section 34, which is surrounded on three sides by areas that will be mined, would result in the unnecessary loss of coal resources. The incentive for PNRC or another coal company to pursue a lease by application would be diminished if the coal in this section were not mined because additional resources would be required to re-access the area. Delaying the lease sale would reduce the maximum economic recovery of the coal and potentially could eliminate interest in the sale altogether. This alternative was considered, but eliminated from detailed analysis.

IV. Rationale for the Decision

Pursuant to 40 CFR 1502.21 and 1508.28, this site-specific EA tiers to and incorporates by reference the information and analysis contained in the Farmington Resource Management Plan/Final Environmental Impact Statement (RMP/FEIS) (BLM 2003a), which was approved as the Final Resource Management Plan for the FFO of the BLM by the Record of Decision (ROD) signed September 29, 2003 (BLM 2003b). The PRMP/FEIS and ROD are available for review at the FFO in Farmington, New Mexico, or electronically at http://www.blm.gov/nm/st/en/fo/Farmington_Field_Office/ffo_planning.html. This EA addresses site-specific resources and/or impacts that are not covered within the PRMP/FEIS, including application of the twenty coal unsuitability criteria, as required by NEPA and the Surface Mining Control and Reclamation Act. The El Segundo area is identified as an Additional Coal Interests (ACI) area that would be available for coal mining with stipulations (BLM 2003a, page 2-246). The proposed project would not be in conflict with any local, county, or state plans. Below is a summary of the coal unsuitability criteria (43 CFR 3461.5) and the relevance of these criteria to the proposed mining activity.

Unsuitability Criteria		Determination
Criterion Number 1. All Federal lands included in the following land systems or categories shall be considered unsuitable: National Park System, National Wildlife Refuge System, National System of Trails, National Wilderness Preservation System, National Wild and Scenic Rivers System, National Recreation Areas, lands acquired with money derived from the Land and Water Conservation Fund, National Forests, and Federal lands in incorporated cities, towns, and villages.		Does not apply. The tract is not included in the listed land systems or categories, and is not in an incorporated area.
Criterion Number 2. Federal lands that are within rights-of-way or easements or within surface leases for residential, commercial, industrial, or other public purposes, on federally owned surface shall be considered unsuitable.		Does not apply. The surface of the tract is privately owned. There are no federally authorized surface uses.
Criterion Number 3. The terms used in this criterion have the meaning set out in the Office of Surface Mining Reclamation and Enforcement regulations at Chapter VII of Title 30 of the Code of Federal Regulations. Federal lands affected by section 522(e) (4) and (5) of the Surface Mining Control and Reclamation Act of 1977 shall be considered unsuitable. This includes lands within 100 feet of the outside line of the right-of-way of a public road or		Does not apply. None of the listed features occur on the tract or adjacent lands.

within 100 feet of a cemetery, or within 300 feet of any public building, school, church, community or institutional building or public park or within 300 feet of an occupied dwelling.		
Criterion Number 4. Federal lands designated as wilderness study areas shall be considered unsuitable while under review by the Administration and the Congress for possible wilderness designation. For any Federal land which is to be leased or mined prior to completion of the wilderness inventory by the surface management agency, the environmental assessment or impact statement on the lease sale or mine plan shall consider whether the land possesses the characteristics of a wilderness study area. If the finding is affirmative, the land shall be considered unsuitable, unless issuance of noncompetitive coal leases and mining on leases is authorized under the Wilderness Act and the Federal Land Policy and Management Act of 1976.		Does not apply. The tract is not within a wilderness study area. The surface of the tract is privately owned.
Criterion Number 5. Scenic Federal lands designated by visual resource management analysis as Class I (an areas of outstanding scenic quality or high visual sensitivity) but not currently on the National Register of Natural Landmarks shall be considered unsuitable.		Considered in the Environmental Assessment. The lease tract and its surroundings are not VRM Class 1.
Criterion Number 6. Federal lands under permit by the surface management agency, and being used for scientific studies involving food or fiber production, natural resources, or technology demonstrations and experiments shall be considered unsuitable for the duration of the study, demonstration or experiment, except where mining could be conducted in such a way as to enhance or not jeopardize the purposes of the study, as determined by the surface management agency, or where the principal scientific user or agency gives written concurrence to all or certain methods of mining.		Does not apply. None of the listed uses occur on the tract.
Criterion Number 7. All publicly or privately owned places which are included in the National Register of Historic Places shall be considered unsuitable. This shall include any areas that the surface management agency determines, after consultation with the Advisory Council on Historic Preservation and the State Historic Preservation Officer, are necessary to protect the inherent values of the property that made it eligible for listing in the National Register.		Considered in the Environmental Assessment.
Criterion Number 8. Federal lands designated as natural areas or as National Natural Landmarks shall be considered unsuitable.		Does not apply. No such designations exist on the tract.
Criterion Number 9. Federally designated critical habitat for listed threatened or endangered plant and animal species, and habitat proposed to be designated as critical for listed threatened or endangered plant and animal species or species proposed for listing, and habitat for Federal threatened or endangered species which is determined by the Fish and Wildlife Service and the surface management agency to be of essential value and where the presence of threatened or endangered species has been		Considered in the Environmental Assessment.

scientifically documented, shall be considered unsuitable.		
Criterion Number 10. Federal lands containing habitat determined to be critical or essential for plant or animal species listed by a state pursuant to state law as endangered or threatened shall be considered unsuitable.		Considered in the Environmental Assessment.
Criterion Number 11. A bald or golden eagle nest or site on Federal lands that is determined to be active and an appropriate buffer zone of land around the nest site shall be considered unsuitable. Consideration of availability of habitat for prey species and of terrain shall be included in the determination of buffer zones. Buffer zones shall be determined in consultation with the Fish and Wildlife Service.		Considered in the Environmental Assessment.
Criterion Number 12. Bald and golden eagle roost and concentration areas on Federal lands used during migration and wintering shall be considered unsuitable.		Considered in the Environmental Assessment.
Criterion Number 13. Federal lands containing a falcon (excluding kestrel) cliff nesting site with an active nest and a buffer zone of Federal land around the nest site shall be considered unsuitable. Consideration of availability of habitat for prey species and of terrain shall be included in the determination of buffer zones. Buffer zones shall be determined in consultation with the Fish and Wildlife Service.		Considered in the Environmental Assessment.
Criterion Number 14. Federal lands which are high priority habitat for migratory bird species of high Federal interest on a regional or national basis, as determined jointly by the surface management agency and the Fish and Wildlife Service, shall be considered unsuitable.		Considered in the Environmental Assessment.
Criteron Number 15. Federal lands which the surface management agency and the state jointly agree are habitat for resident species of fish, wildlife and plants of high interest to the state and which are essential for maintaining these priority wildlife and plant species shall be considered unsuitable. Examples of such lands which serve a critical function for the species involved include: (i) Active dancing and strutting grounds for sage grouse, sharp-tailed grouse, and prairie chicken; (ii) Winter ranges crucial for deer, antelope, and elk; (iii) Migration corridor for elk; and (iv) Extremes of range for plant species; and A lease may be issued if, after consultation with the state, the surface management agency determines that all or certain stipulated methods of coal mining will not have a significant long-term impact on the species being protected.		Considered in the Environmental Assessment.

Criterion Number 16. Federal lands in riverine, coastal and special floodplains (100-year recurrence interval) on which the surface management agency determines that mining could not be undertaken without substantial threat of loss of life or property shall be considered unsuitable for all or certain stipulated methods of coal mining.		Does not apply. The tract is not in a riverine, coastal or special floodplain.
Criterion Number 17. Federal lands which have been committed by the surface management agency to use as municipal watersheds shall be considered unsuitable.		Does not apply. The tract is not committed to use as a municipal watershed.
Criterion Number 18. Federal lands with National Resource Waters, as identified by states in their water quality management plans, and a buffer zone of Federal lands ¼ mile from the outer edge of the far banks of the water, shall be unsuitable.		Does not apply. The tract is not within a National Resource Water or buffer zone.
Criterion Number 19. Federal lands identified by the surface management agency, in consultation with the state in which they are located, as alluvial valley floors according to the definition in § 3400.0-5(a) of this title, the standards in 30 CFR Part 822, the final alluvial valley floor guidelines of the Office of Surface Mining Reclamation and Enforcement when published, and approved state programs under the Surface Mining Control and Reclamation Act of 1977, where mining would interrupt, discontinue, or preclude farming, shall be considered unsuitable. Additionally, when mining Federal land outside an alluvial valley floor would materially damage the quantity or quality of water in surface or underground water systems that would supply alluvial valley floors, the land shall be considered unsuitable.		Does not apply. The tract is not in an alluvial valley floor and mining will not impact an alluvial valley floor.
Criterion Number 20. Federal lands in a state to which is applicable a criterion (i) proposed by the state or Indian tribe located in the planning area, and (ii) adopted by rulemaking by the Secretary, shall be considered unsuitable.		Does not apply. No such criteria have been proposed or adopted.

I have determined that the activities described in the proposed action will not adversely affect or cause loss or destruction of scientific, cultural, or historical resources, including those listed in or eligible for listing in the National Register of Historic Places (40 CFR 1508.27(b)(8)). Cultural resource surveys were completed. Two sites eligible for National Register listing will be avoided. The State Historic Preservation Office (SHPO) will be consulted on National Register eligibility of seven sites. All sites determined eligible for National Register listing by SHPO will require additional archaeological investigations, with the potential for data recovery. Representatives from Laguna Pueblo will be consulted regarding the treatment of site LA 27899, a TCP (4-17). A special leasing stipulation for cultural resources has been attached to the lease that requires the lessee to conduct additional surveys for any additional surface disturbance, protect cultural resources and traditional cultural properties, and notify the BLM upon discovery of cultural resources.

The proposed activities are not likely to adversely affect any endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act (40 CFR 1508.27(b)(9)). The project area does not contain any known threatened or endangered species populations or designated critical habitat (4-14). A special leasing stipulation for threatened and endangered species has been attached to the lease that notifies the lessee that surface disturbing activities may be modified to conserve listed species and their habitat, along with other requirements of the Endangered Species Act.

The selected alternative (Proposed Action, section 2.2), along with the application of the above coal unsuitability criteria and special leasing stipulations meet the purpose and need for the action because it allows the BLM to comply with its obligation under the Mineral Leasing Act and Federal Coal Leasing Amendments Act while also allowing the BLM to meet its obligations under other authorities to avoid or reduce impacts to other resources.

V. Public Involvement

Beyond regular public involvement with coal lease sales activities, there was no public involvement or public scoping as part of the EA. Several factors were considered in determining that external scoping was not necessary for this project. Foremost, multiple EAs and EISs related to coal mining actions have been prepared in the region within the last five years including the BHP Navajo Coal Company Pre-2016 Mine Plan for Area III and Area IV North EA, the Desert Rock Energy Project Draft EIS, and the Kayenta Mine Permit Renewal EA. These past documents were reviewed, and issues applicable to the EA for this project were identified. Other factors considered in determining whether external scoping was warranted included the size of the project, the surface and adjacent lands ownership, whether the action is unique, and the potentially interested and affected parties. Because the proposed LBA is for a small area (640 acres) of federal minerals beneath private surface and surrounded by private lands and the active El Segundo Coal Mine, coupled with the list of NEPA issues identified by other coal projects, it was determined that public involvement for this project would include notifying the public of the availability of the Draft EA for review and soliciting comments on that document. Additionally, a public information meeting and a public hearing were held to inform the public about the Proposed Action and to solicit comments.

Issues and concerns have been expressed by the public and government agencies relating to the potential impacts of coal leasing and development activities in the region. In response to these issues and concerns, a list of items was developed and addressed in the EA.

VI. Administrative Review and Appeal

This decision may be appealed to the Interior Board of Land Appeals (Board), Office of the Secretary, in accordance with the regulations contained in 43 CFR Part 4 and the enclosed Form 1842-1. Any appeal must be filed within 30 days of service of this decision, with the Bureau of Land Management, New Mexico State Office, P.O. Box 27115, Santa Fe, NM 87502-0115, and concurrently with the Regional Solicitor, Southwest Region, U.S. Department of the Interior, 505 Marquette Ave., NW, Suite 1800, Albuquerque, NM 87102.

An appellant must file a statement of reasons for appeal with the Board no later than 30 days after the notice of appeal was filed (43 CFR 4.412(a)). The statement of reasons must be filed with the U.S. Department of the Interior, Office of Hearings and Appeals, Interior Board of Land Appeals, 801 N. Quincy Street, MS 300-QC, Arlington, VA 22203, with a copy to the Regional Solicitor. Failure to file the statement of reasons within the time required will subject the appeal to summary dismissal (43 CFR 4.412(c)). Notwithstanding the provisions of 43 CFR 4.21(a)(2), filing a notice of appeal under 43 CFR Part 4 does not automatically suspend the effect of the decision. If you wish to file a petition for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the Board, the petition for a stay must accompany your notice of appeal.

A petition for a stay is required to 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.

The appellant shall serve a copy of its notice of appeal and petition for a stay on each party named in the decision from which the appeal is taken, and on the Director or the Appeals Board to which the appeal is taken, at the same time such documents are served on the appropriate officer of the Department (43 CFR 4.21(b)(3)).

Recommended:

David Evans, District Manager
Farmington District Office

January 23, 2014
Date

Approved:

Alan L Seidlitz
for Jesse Juen, New Mexico State Director
Bureau of Land Management

January 24, 2014
Date