

Foidel Creek Mine  
Federal Coal Lease COC54608 Modification  
Determination of NEPA Adequacy  
DOI-BLM-CO-N010-2014-0044-EA  
Routt County, Colorado  
February 2017



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**Office of Surface Mining Reclamation and Enforcement**  
**Program Support Division**  
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### Determination of NEPA Adequacy Checklist

Resource Area	Determination	Rationale
Topography	Less than Significant Effect	OSMRE concurs with BLM’s finding that there would be no adverse impact to topography and geology because the Proposed Action does not include any new surface disturbance activities and subsidence impacts are expected to be minor (EA pages 48 through 49 and 60).
Geology (Paleontology)	Less than Significant Effect	
Water Resources/Hydrology ( <i>surface water, groundwater, floodplains, wild and scenic rivers, and wetlands</i> )	Less than Significant Effect	OSMRE concurs with BLM’s analysis and finding that the Proposed Action would not have any adverse impacts on ground or surface water (EA pages 66 through 71).
Climate Change	Less than Significant Effect	OSMRE concurs with BLM’s determination not to include a social cost of carbon analysis in the EA because the EPA and other federal agencies use the social cost of carbon to estimate the climate benefits of rulemakings (EA pages 31 – 47). The EA discusses the direct emissions from mining (EA page 33 Table 5), and indirect downstream emissions from combustion (EA page 34). This approach is consistent with framework identified in the August 1, 2016, Final Council on Environmental Quality (CEQ) guidance on climate change considerations during NEPA reviews published after the EA, but prior to this decision. Although the CEQ guidance is forward looking; "Agencies should apply this guidance to all new proposed agency actions ... " (CEQ page 33).
Air Quality	Less than Significant Effect	OSMRE concurs with BLM’s analysis including indirect coal combustion emissions (EA pages 31 through 47).
Soils	No Effect	OSMRE concurs with BLM’s finding that no soils would be affected because the Proposed Action does not include any new surface disturbance activities (EA Page 21).
Vegetation	No Effect	OSMRE concurs with BLM’s finding that there would be no adverse impact to vegetation because the Proposed Action does not include any new surface disturbance activities (EA page 22).
Fish and Wildlife	Less than Significant Effect	OSMRE concurs with BLM’s finding that no adverse impacts to fish and wildlife due to no new surface disturbance and continuing existing operations including potential impacts from mercury (EA page 50 through 57). BLM completed formal Section 7 consultation under the Endangered Species Act and received a Biological Opinion. A “may affect, likely to adversely affect” determination was found for the four Colorado River Fish. However, in the FWS’s BO, it is the Service’s conclusion that the Proposed Action is not likely to jeopardize the continued existence of the four endangered fish (EA page 50).
Land Use	No Effect	OSMRE concurs with BLM’s finding that there would be no adverse impact to land use because the Proposed Action does not include any new surface disturbance activities (EA page 22).
Socioeconomics	Less than Significant Effect	OSMRE concurs with BLM’s analysis and finding that the Proposed Action would not create any new employment at the Mine (EA pages 62 through 66).
Environmental Justice	No Effect	OSMRE concurs with BLM’s finding that there would be no adverse impact to environmental justice communities because the minority and low- income populations are dispersed throughout the county therefore no minority or low-income population would suffer disproportionately high and adverse effects as a result the Proposed Action (EA page 22).

Resource Area	Determination	Rationale
Transportation	No Effect	OSMRE concurs with BLM's finding that there would be no adverse impact to area transportation because the Proposed Action does not include any new public roadways (EA page 23).
Recreation	No Effect	OSMRE concurs with BLM's finding that there would be no adverse impact to recreational resources because the Proposed Action does not include any public lands (EA page 23).
Noise and Vibration	No Effect	OSMRE notes that noise impacts were not addressed as part of the impact analyses sections or identified in Table 1 of the EA. OSMRE reviewed the Permit Application Package for Permit Revision 10, and found that there will be no substantial noise resulting from the Proposed Action. Additionally, any potential impacts to employees would be regulated by Mine Safety and Health Administration.
Visual	No Effect	OSMRE concurs with BLM's finding that there would be no adverse impact to visual resources because the Proposed Action does not include any new surface disturbance activities (EA page 23).
Cultural	Less than Significant Effect	OSMRE concurs with BLM's finding that there would be no adverse impact to cultural resources including impacts related to subsidence (EA pages 57 through 59).
Human Health and Safety	Less than Significant Effect	OSMRE notes that this topic is covered primarily under the Hazardous Materials section of the EA. OSMRE concurs with BLM's findings that there would be no adverse impacts (EA pages 60 through 62).
Other	No Effect	OSMRE concurs with BLM's finding that there would be no impact to livestock operations, wilderness study areas, wild and scenic rivers, realty, forest and fire management, and prime and unique farmlands resources because the Proposed Action does not include any new surface disturbance activities and is located on private lands (EA pages 21 through 23).

**Conclusion:** The Office of Surface Mining Reclamation and Enforcement's (OSMRE) Western Region has determined that the proposed lease modification to add 310 acres of un-leased federal coal under privately owned surface land at the Twentymile Coal, LLC's (TC) Foidel Creek Mine would not constitute a major federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act (NEPA) of 1969, as amended. OSMRE is completing this Determination of NEPA Adequacy to support its adoption of BLM's Environmental Assessment for the Peabody Twentymile Coal, LLC COC54608 Lease Modification (DOI-BLM-CO-N010-2014-0044-EA) for the Foidel Creek Mine located in Routt County, Colorado. OSMRE determined that the proposed lease modification to add 310 acres of un-leased federal coal under privately owned surface land at the TC Foidel Creek Mine would not constitute a major federal action significantly affecting the quality of the human environment within the meaning of the NEPA. OSMRE was also a cooperater on the EA and has reviewed BLM's EA and determined that it adequately analyzed the impacts for the mining plan decision document as explained in detail below.

For purposes of the adoption, OSMRE's Proposed Action would be to review the mining plan proposed in permit revision (PR) 10, which TC submitted to the Colorado Division of Reclamation and Mining Safety, to conduct coal mining and reclamation operations on lands containing leased federal coal. Pursuant to 30 CFR 746, OSMRE is responsible for making a recommendation to the Department of the Interior Assistant Secretary for Land and Minerals Management (ASLM) regarding a decision on proposed mining plan modifications meeting those criteria. OSMRE must prepare and submit a mining plan decision document to the ASLM recommending approval, disapproval, or approval with condition(s) of the proposed mining plan modification. The ASLM is responsible for making the decision to approve, disapprove, or approve with condition(s), as required under the Mineral Leasing Act of 1920.

PR-10 originally included state, private, and federal coal. However, due to processing time constraints, TC consequently submitted PR-11 to the Colorado Division of Reclamation and Mining Safety. PR-11 removed all of the state and fee coal from PR-10, leaving PR-10 to only contain federal coal. The submission of PR-11 did not change the BLM's EA analysis, and OSMRE's Finding of No Significant Impact (FONSI) conclusions regarding the Federal coal contained in PR-10.

# **Worksheet**

## **Determination of NEPA Adequacy (DNA)**

OFFICE: Department of the Interior, *Office of Surface Mining Reclamation and Enforcement, Western Region, Denver, CO*

PROPOSED ACTION TITLE/TYPE: *Mining Plan Decision Document and Office of Surface Mining Reclamation and Enforcement Adoption of the Bureau of Land Management's Environmental Assessment for the Peabody Energy Corporation's, Twentymile Coal, LLC – Foidel Creek Mine*

LOCATION/LEGAL DESCRIPTION: *Project location contains approximately 310 acres in Routt County, Colorado.*

APPLICANT (if any): *Peabody Energy Corporation's, Twentymile Coal, LLC*

### **A. Description of the Proposed Action and any applicable mitigation measures**

The Bureau of Land Management (BLM) prepared an environmental assessment (EA) to analyze the environmental effects of a coal lease modification application. Twentymile Coal, LLC (TC) has submitted a lease modification to the BLM seeking to modify an existing coal lease, COC54608. TC currently operates the Foidel Creek Mine which is an underground longwall coal mine located about 20 miles southwest of Steamboat Springs in Routt County, Colorado. TC has been mining at the Foidel Creek Mine by underground methods since 1983. The Foidel Creek Mine is made up of 6 Federal coal leases, private coal leases, and state coal leases and produces approximately 4 million tons of coal per year.

The modification to lease COC54608 proposes to add 310 acres of un-leased federal coal under privately owned surface at the TC Foidel Creek Mine. Lease COC54608 was originally issued in February 1996 for 2,600 acres. Recovery of the Wadge coal seam within this 2,600-acre lease boundary occurred from June 1996 to September 2001. In August 2002, mining of the Wadge seam coal in COC54608 was completed; therefore, TC relinquished 2,280 acres of lease COC54608. TC retained 320 acres of lease COC54608 for access to their continued mining operations. TC completed mining operations of authorized private and State coal within the Wadge seam in June 2016. TC is currently mining authorized private and State coal within the State permit boundary of the Wolf Creek seam.

The lease modification application is for the Wolf Creek seam, a coal seam below the Wadge seam. It is estimated that the federal coal reserves included in this lease modification would total approximately 340,000 recoverable tons of high volatile, group B, bituminous coal and would extend the life of the mine by approximately one to two years. There would be no new or additional surface disturbance; BLM's unsuitability criteria apply only to surface coal mining, and therefore are not applicable for this proposed lease modification.

**B. Identify applicable National Environmental Policy Act (NEPA) documents and other related documents that cover the proposed action.**

The EA tiers to the 1980 Green River – Hams Fork EIS and the 1995 EA for the leasing and development of the original 2,600 acres COC54608 lease issued in February 1996 located at the Foidel Creek Mine.

On December 14, 2015, the BLM submitted a biological assessment (BA) for the BLM EA for the Peabody Twentymile Coal, LLC COC54608 Lease Modification (DOI-BLM-CO-N010-2014-0044-EA) to the Fish and Wildlife Service (FWS). BLM made the following determinations:

<b>Species</b>	<b>Determination</b>
Colorado pikeminnow ( <i>Ptychocheilus lucius</i> )	May Affect, is Likely to Adversely Affect
Razorback sucker ( <i>Xyrauchen texanus</i> )	May Affect, is Likely to Adversely Affect
Bony-tail chub ( <i>Gila elegans</i> )	May Affect, is Likely to Adversely Affect
Humpback chub ( <i>Gila cypha</i> )	May Affect, is Likely to Adversely Affect
Western yellow-billed cuckoo ( <i>Coccyzus americanus</i> )	May Affect, but is not Likely to Adversely Affect
Greenback cutthroat trout ( <i>Oncorhynchus clarki stomias</i> )	May Affect, but is Not Likely to Adversely Affect
Black-footed ferret ( <i>Mustela nigripes</i> )	no effect
Canada lynx ( <i>Lynx canadensis</i> )	no effect

On February 23, 2016, the BLM submitted a supplement to the BA to include water depletions at the mine. The BLM concluded that the proposed coal lease modification would not result in any water depletions and that no water depletions are expected from underground mining of the federal coal from this lease modification. The supplement occurred before the TC submitted Permit Revision (PR) 11 which is why it is mentioned that PR-10 includes state, fee, and federal coal however, as discussed above, PR-10 now only contains federal coal.

A biological opinion (BO) (TAILS 06E24100-2016-F-0107) was issued to the BLM on February 29, 2016, for the BLM EA for the Peabody Twentymile Coal, LLC COC54608 Lease Modification (DOI-BLM-CO-N010-2014-0044-EA). The FWS BO found that mining within the Federal Coal Lease modification COC54608 is not likely to jeopardize the four endangered fish, nor is it likely to destroy or adversely modify their critical habitats. The FWS also concurred with BLM's determinations for the greenback cutthroat trout and

western yellow-billed cuckoo, and its proposed critical habitat. FWS acknowledge BLM's determination of no effect for the black-footed ferret and Canada lynx, but neither 7(a)(3) of the Act, nor implementing regulations under section 7(a)(2) of the Act require FWS to review or concur with this determination. However, FWS did appreciate the analysis for those species. Both the BA and BO can be viewed within attachment A to the EA (DOI-BLM-CO-N010-2014-0044-EA).

### **C. NEPA Adequacy Criteria**

**1. Is the new proposed action a feature of, or essentially similar to, an alternative analyzed in the existing NEPA document(s)? Is the project within the same analysis area, or if the project location is different, are the geographic and resource conditions sufficiently similar to those analyzed in the existing NEPA document(s)? If there are differences, can you explain why they are not substantial?**

Yes, the Proposed Action and alternatives analyzed cover the same geographic extent as the lease modification analyzed in BLM's EA (DOI-BLM-CO-N010-2014-0044-EA) in which OSMRE was a cooperating agency.

**2. Is the range of alternatives analyzed in the existing NEPA document(s) appropriate with respect to the new proposed action, given current environmental concerns, interests, and resource values?**

Yes, the range of alternatives analyzed is consistent with the Proposed Action and purpose and need for the mining plan modification. The range of alternatives adequately analyzed current environmental concerns, interests, and resource values associated with the mining plan modification.

**3. Is the existing analysis valid in light of any new information or circumstances (such as, rangeland health standard assessment, recent endangered species listings, updated lists of sensitive species)? Can you reasonably conclude that new information and new circumstances would not substantially change the analysis of the new proposed action?**

The EA describes methods used for considering the direct, indirect, and cumulative effects of greenhouse gases (GHGs) and the qualitative impacts of climate change. This approach is consistent with framework identified in the August 1, 2016, Council on Environmental Quality's (CEQ) Final Guidance on climate change considerations during NEPA reviews - published after the EA, but prior to this decision. Although the CEQ guidance is forward looking; "Agencies should apply this guidance to all new proposed agency actions ..." (CEQ p. 33. For example, the EA discusses the direct emissions from mining (page 33 Table 5), and indirect downstream emissions from combustion (EA page 34). The CEQ guidance discusses direct and indirect effects in the same context as the EA (CEQ page 16). The guidance also reaffirmed that a cost-benefit analysis is not required here, and monetizing climate impacts is also not required when important qualitative considerations exist (CEQ

page 32). The EA discusses important qualitative considerations throughout the document (EA page 39 through 40). Updates to these resources would result in minor changes to values presented and these changes are not expected to be significant. OSMRE is not aware of any new information or circumstances that would require modification of the analysis.

OSMRE notes that potential noise impacts were not addressed as part of the impact analyses sections or identified in Table 1 of the EA. OSMRE reviewed the Permit Application Package for PR-10, and found that there will be no substantial noise resulting from the Proposed Action. Additionally, any potential impacts to employees would be regulated by Mine Safety and Health Administration.

**4. Are the direct, indirect, and cumulative effects that would result from implementation of the new proposed action similar (both quantitatively and qualitatively) to those analyzed in the existing NEPA document?**

Yes, the direct, indirect, and cumulative effects analyzed cover a similar Proposed Action and do not require additional analysis.

The EA overestimated potential GHG emissions from the proposed action, originally estimating projected emissions to be around 19,000,000 metric tons (EA page 39). However, the projected total emissions from the proposed action will be closer to 867,000 metric tons. This error was due to estimating total mine emissions, instead of just the 340,000 tons of additional coal covered by this decision. This technical correction is reflected in an errata to the EA. The analysis overestimated direct emissions, thus environmental impacts from GHGs are less than described in the EA. The original estimate provides context of the entire mining operation, which is helpful in considering the cumulative effects and the scale of this action in the larger scope of the mine. Although GHG emissions were overestimated, the direct and indirect impacts of the proposed action do not substantially change from those identified in the EA. Other aspects and disclosures were also reevaluated and remain substantially unchanged.

**5. Are the public involvement and interagency review associated with existing NEPA document(s) adequate for the current proposed action?**

Yes, the BLM's and OSMRE's public involvement and interagency review is sufficient for NEPA. BLM conducted external scoping by posting information about this project on the Little Snake Field Office's online NEPA register web site on June 30, 2014. The EA public comment March 2 - April 1, 2015. Two comments were received within the comment period; two comments were received after the close of the public comment period on April 2, 2015. The timely comments were from Sam Baker and from Peabody; late comments were from Leslie Glustrom and Wild Earth Guardians (EA page 12). The BLM considered all comments received. These comments and responses to the comments were tabulated in Attachment B of DOI-BLM-C0-2014-0044-EA.

OSMRE will release an unsigned Finding of No Significant Impact ( FONSI) for the adoption of DOI-BLM-C0-2014-0044-EA for a 15-day public comment period on OSMRE’s Western Region website as well as providing public noticing in the Steamboat Pilot & Today and Craig Daily Press newspapers. Letters will be mailed to stakeholders and tribes on the same day as the press release. Once the comment period closes, OSMRE will review and consider any public comments received for the FONSI.

**D. Persons/Agencies /OSMRE Staff Consulted**

Identified below are those team members that conducted or participated in the preparation of this document.

<b>Name</b>	<b>Title</b>	<b>Resource/Agency Represented</b>
Gretchen Pinkham	Natural Resource Specialist	NEPA Compliance, OSMRE
Nicole Caveny	Environmental Protection Specialist	NEPA Compliance, OSMRE
Michelle Fishburne	Program Analyst	NEPA Compliance, OSMRE

Based on the review documented above, I conclude that this proposal conforms to the applicable land use plan and that the NEPA documentation fully covers the proposed action and constitutes the OSMRE’s compliance with the requirements of NEPA.

/s/ Nicole Caveny 2/13/17  
 Project Lead Date

/s/ Gretchen Pinkham 2/13/17  
 NEPA Coordinator Date

/s/ Marcelo Calle 2/13/17  
 Responsible Official Date

**Note:** The signed Conclusion on this Worksheet is part of an interim step in the OSMRE’s internal decision process and does not constitute an appealable decision.