

## **Worksheet**

### **NEPA Adequacy Review Form (NARF)**

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

PROPOSED ACTION TITLE/TYPE: *Mining Plan Modification for West Elk Mine Federal Coal Lease Modifications COC-1362 and COC-67232*

LOCATION/LEGAL DESCRIPTION: *Paonia Ranger District, Grand Mesa, Uncompahgre and Gunnison National Forests; Gunnison County, Colorado; Sections 10, 11, 14, 15, 22, 23 T14S; R 90W, 6th PM*

APPLICANT (if any): *Federal coal lease COC-67232 (held by Ark Land LLC (Ark)) and federal coal lease COC-1362 (held by Mountain Coal Company, LLC (MCC))*

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

OSMRE is adopting the Supplemental Final Environmental Impact Statement (SFEIS) for Federal Coal Lease Modifications COC-1362 and COC-67232 (including on-lease exploration plan) prepared by the U.S. Forest Service (USFS) and concurs with the USFS's selection of Alternative 3 (Consent to and Modification of the Leases) as described in the SFEIS (Section 2.2.3). OSMRE has reviewed the mine plan submitted to Colorado Division of Reclamation, Mining and Safety (CDRMS) and has concluded that the action is substantially similar to that analyzed in the SFEIS and the environmental analysis completed in the SFEIS is adequate.

Alternative 3 as analyzed in the SFEIS would modify existing federal coal leases COC-1362 and COC- 67232 by adding 800 and 920 additional acres (respectively). The leases would be mined using underground longwall mining techniques producing approximately 4.5 million tons per year and continuing mining operations by approximately 2 years. OSMRE received additional information regarding the anticipated site locations and surface disturbance acreage associated with Permit Revision 15 (PR 15) submitted to Colorado Division of Reclamation, Mining, and Safety. Under Alternative 3, approximately 54 acres of surface disturbance would occur on both federal and private lands for the construction of Mine Ventilation Boreholes (MVBs) and temporary roads.

Figure 1. PR 15 Map

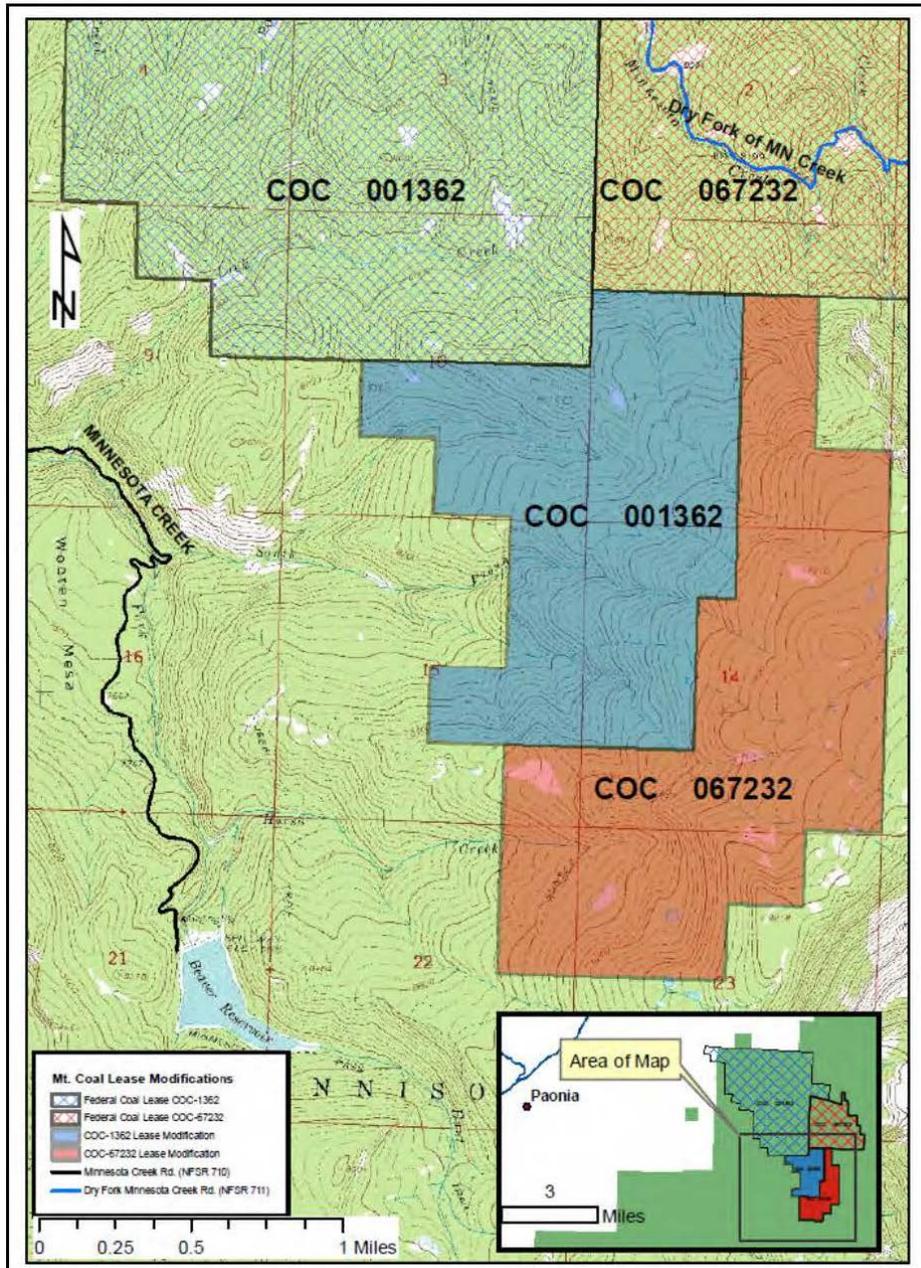
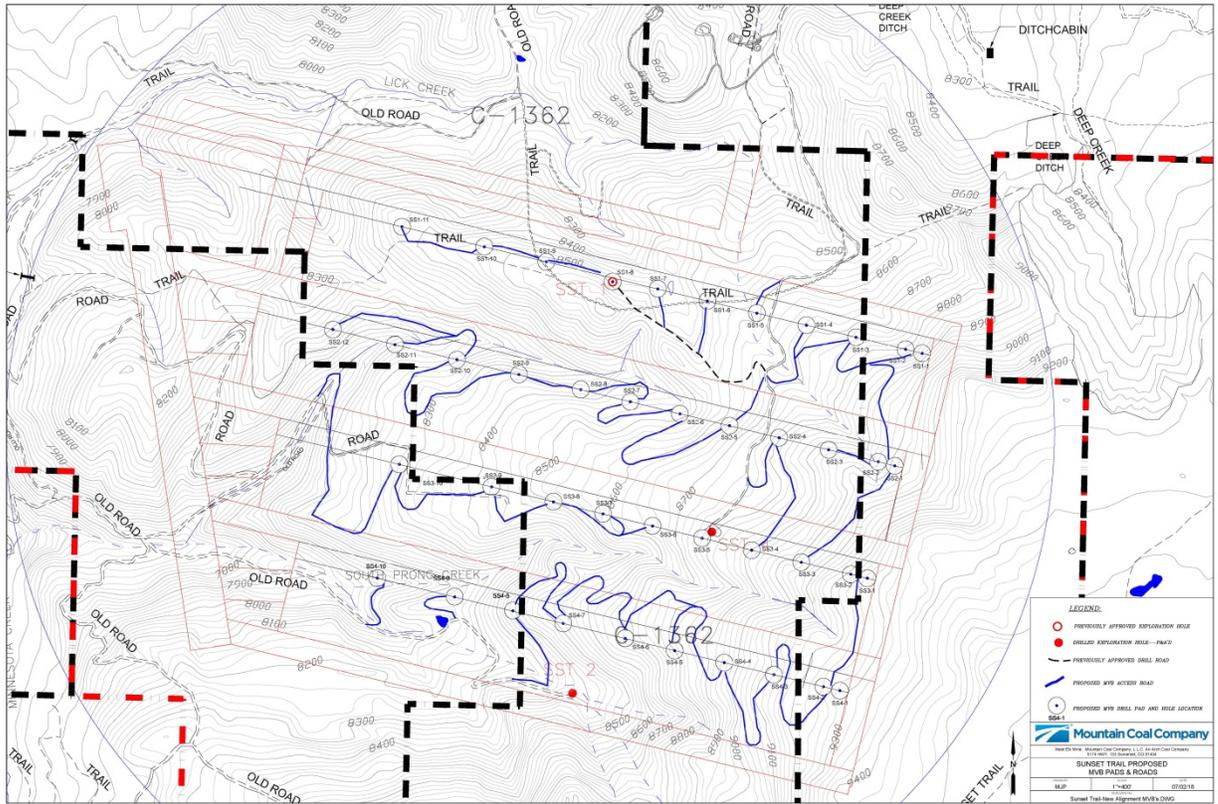


Figure 2. PR 15 MVB and Temporary Road Locations



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

The proposed action (Alternative 3) is previously analyzed in the 2017 USFS Supplemental Final Environmental Impact Statement (SFEIS) for Federal Coal Lease Modifications COC-1362 and COC-67232 (including on-lease exploration plan) and 2018 OSMRE Record of Decision (ROD).

A Biological Assessment (BA) was prepared for this decision by USFS considering all known endangered or threatened species in the area. Due to “may affect, not likely to adversely affect” determinations for Canada Lynx and water depletions related to the four endangered Colorado River fish, informal consultation with the USFWS was completed on June 16, 2010 (ES/CO: FS/GMUG/Paonia RD; Tails 65413-2010-F-0109) USFWS had concurred with USFS findings. OSMRE received concurrence from USFWS based on USFS previous consultation on August 8, 2018.

**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 in the 2017 USFS SFEIS for Federal Coal Lease Modifications COC-1362 and COC-67232 (including on-lease exploration plan) cover the same geographic extent as PR 15. The revised PR 15 acreage for MVB and temporary roads was reduced to approximately 54 acres from the previously analyzed 72 acres. The SFEIS analyzed potential impacts from the locations of MVBs and temporary roads using a reasonable foreseeable mine plan which adequately disclosed what (if any) significant impacts would result from their construction and reclamation. OSMRE reviewed this analysis in comparison to the revised PR 15 site locations and determined that the revised site locations did not present any new environmental impacts or require additional mitigation measures that were not previously analyzed in the SFEIS.

**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 in the SFEIS is consistent with the revised PR15. The range of alternatives in the SFEIS adequately analyzed current environmental concerns, interests, and resource values associated with the revised PR 15.

**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?**

OSMRE reviewed updated information included in the revised PR 15 application and the 2016 annual hydrology report. The review of this information does not change the significance determinations made in the SFEIS; however, OSMRE has made minor clarifications to text based on the review in Question # 4. OSMRE is not aware of any new information or circumstances that would require a new analysis to be completed. The revised PR 15 surface disturbance acreage of approximately 54 acres (federal and private) and site location data for MVBs and temporary roads would not result in adverse impacts that were not already analyzed in the FSEIS.

**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 in the SFEIS cover a similar area as revised PR 15 and do not require additional analysis. The revised PR 15 acreage for MVB and temporary roads decreased surface disturbance on both federal and private lands from 72 acres to 54 acres. This increase does not represent a substantial difference requiring supplemental or new analysis under NEPA. Environmental impacts resulting from Alternative 3 were minimized through lease stipulations by USFS and BLM described in the SFEIS (Table 2-1).

In March 2018, Mountain Coal Company identified five baseline monitoring sites for the lease modification areas as well as monitoring of the perennial streams in the area (Exhibit 71A of PAP). Baseline monitoring on the new stream, spring and pond locations would consist of six consecutive monthly sampling rounds (April through September) for one year, and then three monitoring rounds (rising limb, peak flow, low flow), with one sample collected during peak flow, in each subsequent year. This data collection and reporting is ongoing and no new information is available to include. CDRMS would review the results of the monitoring as part of the PAP.

OSMRE reviewed the updated 2016 Annual Hydrology Report submitted to CDRMS. Based on OSMRE's review the following minor edits and clarifications would be made to the SFEIS.

- SFEIS (page 155, Section 3.1.8.6, last paragraph, second sentence): Sentence is changed to *“Due to the fact that there are perennial reaches of South Prong Creek and Horse Creek within the lease modification area, it is likely that there are perennial springs associated with these reaches (see Figure 3-20).”*
- SFEIS (Page 152, Section 3.8.1.2, 3<sup>rd</sup> paragraph): Sentence is changed to *“South Prong Creek and Horse Creek, as reported by MCC data, are perennial and intermittent.”*
- SFEIS (Page 159, Section 3.8.3.2, 5<sup>th</sup> paragraph, last sentence): ~~*“Figure 3-2 illustrates the potential areas of mining induced mining subsidence impacts to water resources.”*~~
  - After review OSMRE has determined that the Figure referenced in the SFEIS does not show the mining subsidence impact to water resources and is no longer applicable.
- SFEIS (Page 155, Section 3.8.1.7, 1<sup>st</sup> paragraph, 2<sup>nd</sup> and 3<sup>rd</sup> sentences): *“Review of MCC’s water quality data from monitoring wells and springs does reveal small changes in general seasonal trends in groundwater quality at the study area. Some springs can show slightly elevated TDS/TSS, iron and conductivity values; however, this has been attributed to higher spring runoff values (HydroGeo, 2009).”*
  - OSMRE includes the following text that incorporates OSMRE’s conclusions and the findings of the 2016 report.
  - *Water quality data from WY 2016 do not indicate significant changes from baseline conditions for most of the monitored springs. However, many of the springs had slightly elevated TDS/TSS, iron, and/or conductivity values that were noted in WYs 2014 through 2015. These elevated values are likely the result of physical and or seasonal variations and are possibly related to mining operations.*
- SFEIS (Page 159, Section 3.8.3.2, 1<sup>st</sup> paragraph, last sentence): *“The lowering of the land surface may cause springs to migrate a few feet, but no discernable loss*

*of water is anticipated.”*

- OSMRE adds the following sentence to clarify potential impacts.
- *Potentially some of the springs and seeps in the lease modification area could see a reduction or loss of flow due to the proposed longwall mining based on hydrographs in the 2016 report (Appendix D).*

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

Yes, public involvement and interagency reviews were completed for the SFEIS. USFS and BLM sought public and agency comments during preparation of the SFEIS. OSMRE was a cooperating agency and conducted an independent review of the SFEIS. All of OSMRE's comments and suggestions were satisfied in the SFEIS. Therefore, OSMRE is not required to recirculate the SFEIS (40 CFR § 1506.3). OSMRE notified EPA of its intent to Adopt and EPA released a Federal Register Notice.

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

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

Gretchen Pinkham, Natural Resource Specialist  
Cecil Slaughter, Hydrologist

Based on the review documented above, I conclude that the NEPA documentation fully covers the proposed action and constitute the OSMRE's compliance with the requirements of NEPA.

**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.