

RECORD OF DECISION

Federal Coal Lease UTU-081895

Kane County, Utah

Office of Surface Mining Reclamation and Enforcement

June 2019

1.0 Introduction

The Office of Surface Mining Reclamation and Enforcement (OSMRE) participated as a cooperating agency on the Bureau of Land Management (BLM) Alton Coal Tract Lease by Application (LBA) Final Environmental Impact Statement (FEIS) at the Coal Hollow Mine located in Kane County, UT. The Environmental Protection Agency (EPA), National Park Service (Bryce Canyon National Park) (NPS), and Kane County also participated as a cooperating agency. The Coal Hollow Mine is owned and operated by Alton Coal Development, LLC.

OSMRE reviewed the FEIS and concluded that the environmental analysis for leasing and mining, the NEPA process completed by BLM, and FEIS documentation are adequate. BLM addressed all OSMRE comments submitted on the FEIS sufficiently to inform OSMRE's mining plan recommendations to ASLM. OSMRE therefore adopts the FEIS for the 2,114-acre lease and has prepared this Record of Decision (ROD) to inform OSMRE's future decisions regarding Permit Application Packages (PAP)s within this lease.

2.0 Background

2.1 Bureau of Land Management EIS and Leasing Approval

BLM signed a ROD in August 2018 and issued the lease to Alton Coal Development, LLC in November 2018. BLM's decision allowed the competitive lease sale of approximately 2,114 acres (approximately 40.9 million tons of in-place coal and an estimated 30.8 million tons of recoverable coal) associated with the BLM's Selected Alternative, Alternative K1 (Reduced Tract Acreage). The Selected Alternative, Alternative K1, is described in detail in Section 2.5 of the FEIS. Alternative K1 included stipulations and design features, which are provided in Appendix B of BLM's ROD.

The Alternative K1 includes the following primary components:

- The tract will encompass approximately 2,114 acres, of which approximately 1,227 acres are federal surface and mineral estate and 887 acres are split estate (private surface and federal mineral estate) (see Map A-1 in Appendix A). Private surface owners may be qualified to give consent to mine federal minerals under the private surface owner's estate according to 43 CFR 3400.0-5. The surface owner consent process has been completed for the tract.
- Recoverable portions of in-place coal reserves will be mined over approximately 16 years using surface-mining methods where the depth of overburden is approximately 200 feet, and using underground methods (development mining, auger mining, highwall mining, longwall mining, and/or room and pillar mining) where the depth of overburden exceeds approximately 200 feet.
- Some reclamation will be concurrent during mining over the estimated 16-year life of the mine. At closure, a 10-year reclamation and revegetation monitoring period for the entire disturbed area is expected to occur.

- The tract includes approximately 40.9 million tons of in-place coal, and an estimated 30.8 million tons of coal will be recoverable. The BLM estimates that in areas where coal will be mined by surface-mining methods, approximately 90% of the estimated in-place coal reserves will be recoverable. However, in those portions of the tract that must be mined by underground mining methods, approximately 50% of the in-place coal reserves will be recoverable.
- It is anticipated that approximately 1,012 acres of surface disturbance will occur on the tract under Alternative K1. Of this, 869 acres will be the result of surface-mining operations (pit disturbance). Centralized facilities associated with mining activities on the tract will occupy 36 acres. Approximately 92 acres of dispersed facilities will be needed under the Selected Alternative. Underground mining will occur on approximately 613 acres in the northeast section of the tract.
- Portions of KFO Route 116 in the tract will need to be relocated so that no surface disturbance occurs within 100 feet on either side of the outside line of the road.

Alternative K1 was selected by BLM because the tract configuration under this alternative provides for maximum economic recovery of the coal resources present in the tract while staying within the legal and policy limits applicable to the potential impacts. These legal and policy limits relate to the Clean Water Act (CWA), Greater Sage-Grouse (*Centrocercus urophasianus*), and environmental justice regarding potential aesthetic (visual and noise) and air quality impacts on the town of Alton.

Section 404 of the CWA regulates the discharge of dredged or fill material into waters of the United States, including wetlands. The BLM must also comply with Executive Order (EO) 11990 (Protection of Wetlands [May 24, 1977]), which directs federal agencies to provide leadership and act to minimize the destruction, loss, or degradation of wetlands, and to preserve and enhance the natural and beneficial values of wetlands. Of the action alternatives analyzed in the FEIS, the Alternative K1 affects less than 0.10 acre of delineated wetlands.

The BLM Kanab Field Office (KFO) resource management plan, as amended, includes a variety of required measures to protect Greater Sage-Grouse and its habitat. Species-specific limitations include a lek buffer requirement and a disturbance cap requirement. The Alternative K1 will create less surface disturbance in sage-grouse habitat than the other action alternatives and will completely avoid surface disturbance within 0.5 mile of the only lek on the tract.

The FEIS identifies the town of Alton as an environmental justice community that will experience disproportionate impacts. Though some potential for environmental justice effects may occur under Alternative K1, this alternative will result in fewer disproportionate impacts than the other action alternatives. Alternative K1 will be the least visible and audible action to the town of Alton of all action alternatives. In addition, the Selected Alternative will not result in exceedances of the Clean Air Act's National Ambient Air Quality Standards or have disproportionate air resources impacts to the town of Alton. See Table 4.12.8 of the FEIS for a comparison of environmental justice effects from all alternatives.

BLM determined that of the alternatives considered in the EIS, the selection of Alternative K1 meets the BLM's requirement to address all practicable means to avoid or minimize environmental harm and is therefore considered the environmentally preferable alternative.

2.2 Utah Division of Oil, Gas and Mining- SMCRA Permitting

The Utah Division of Oil, Gas and Mining (UT DOGM) is the regulatory authority (RA) for coal mines in Utah that occur on state and private lands. As provided for under the Surface Mining Control and Reclamation Act of 1977 (SMCRA), in 1980, OSMRE approved the State of Utah's coal Regulatory Program, authorized to issue permits to conduct coal mining and reclamation operations in Utah. UT DOGM manages its coal Regulatory Program under SMCRA and the Utah Coal Mining and Reclamation Act (1979). UT DOGM has the authority and responsibility to make decisions to approve surface and underground coal mining permits and regulate coal mining in Utah under Utah Administrative Code R645-301. UT DOGM has the authority and responsibility to:

- Make decisions to approve SMCRA mining permits
- Consult with Federal land management agencies to determine if permit revisions will adversely affect Federal resources and are consistent with that agency's land use plans, Federal laws, regulations and executive orders (EOs) for which it is responsible, and
- Regulate coal mining under regulations.

Coal leaseholders in Utah must submit a PAP to UT DOGM for proposed mining and reclamation operations. If the PAP includes Federal lands, the UT DOGM must notify OSMRE that the PAP is administratively complete and ready for OSMRE's review. UT DOGM reviews the PAP to ensure that the application complies with the permitting requirements and that the coal mining operation would meet Utah's performance standards. UT DOGM is required to work with the coal company until the permit or permit revision can be approved unless prohibited by law.

2.3 Office of Surface Mining Reclamation and Enforcement – Mining Plan Decisions

The Field Operations Branch of OSMRE's Western Region is responsible for the Federal Lands Program and the preparation of mining plan decision documents for review by the Assistant Secretary for Land and Minerals Management (ASLM). When the RA informs OSMRE of a permit application or revision occurring for leased Federal coal and/or Federal surface, OSMRE reviews the PAP to ensure it contains the necessary information to comply with the coal lease, the Mineral Leasing Act of 1920 (MLA), the National Environmental Policy Act (NEPA), and other applicable Federal laws and their attendant regulations. The ASLM must approve mining and reclamation plans on lands containing leased Federal coal. Operations cannot commence until this approval is granted. Pursuant to 30 CFR Part 746, OSMRE must determine if the permit revision requires a mining plan modification. If it does, OSMRE prepares a mining plan decision document (MPDD) for review by the ASLM. On March 8, 2018, OSMRE determined that the mine plan included in LBA Block 1 required a mining plan. Approval of LBA Block 1 will change the Coal Hollow Mine from a Non-Federal Mine to a Federal Mine and will require a federal mining plan modification since it is the

Mine's first time mining federal coal. 30 CFR § 740.4(b) and 746.13 require the OSMRE to provide a MLA MPDD recommendation for Secretarial approval. If a MPDD is deemed necessary, pursuant to 30 CFR 746, OSMRE must:

- For new mining plans, or for existing approved mining plans that are proposed to be modified, prepare and submit to the ASLM a MPDD recommending approval, disapproval, or approval with condition(s) of the proposed mining plan. OSMRE's recommendation is based, at a minimum, upon:
 1. The PAP
 2. Information prepared in compliance with the NEPA
 3. Documentation assuring compliance with the applicable requirements of Federal laws, regulations, and EOs other than the NEPA
 4. Comments and recommendations or concurrence of other Federal agencies and the public
 5. Findings and recommendations of the BLM with respect to the Resource Recovery and Protection Plan (R2P2), Federal lease requirements, and the MLA
 6. Findings and recommendations of the CDRMS with respect to the mine permit application and the Utah State Program; and
 7. The findings and recommendations of the OSMRE with respect to the additional requirements of 30 CFR Chapter VII, Subchapter D.

To assist with assuring compliance with other Federal laws, regulations, and EOs, the OSMRE also reviews, at a minimum, the following documents to make its recommendation to the ASLM:

- Information/correspondence concerning the U.S. Fish and Wildlife Service (USFWS) Section 7 consultation for threatened and endangered (T&E) species potentially affected by the proposed mining plan under the Endangered Species Act of 1973 (ESA); and
- National Historic Preservation Act of 1966 (NHPA) Section 106 consultation for the affected area.

The ASLM must review the MPDD and decide whether to approve the mining plan, and if approved, what, if any, conditions may be needed.

3.0 Purpose and Need

The purpose of the Proposed Action is established by the MLA, as amended, which requires the evaluation of Alton Coal Development, LLC's Mining Plans to continue mining and reclamation operations to develop Federal coal lands included in Federal Coal Lease UTU-081895. The OSMRE is the agency responsible for making a recommendation to the ASLM to approve, disapprove, or approve with conditions the proposed Mining Plan under 30 CFR. The ASLM will decide whether the Mining Plan is approved, disapproved, or approved with conditions.

The purpose of this action is to evaluate the environmental effects of coal mining on Federal Coal Lease UTU-081895 within the Coal Hollow Mine to inform the OSMRE in determining a

recommendation to the ASLM whether to approve, disapprove, or approve with conditions the Federal Mining Plan. ASLM approval of the Federal Mining Plan is necessary to mine the reserves.

The need for this action is to provide Alton Coal Development, LLC the opportunity to mine the Federal coal obtained under Federal Coal Lease UTU-081895 (issued by the BLM in 2018) located at the Coal Hollow Mine.

4.0 Decision

It is OSMRE's decision to adopt the BLM Alton Coal Tract Lease by Application FEIS (2018), as allowed under 40 CFR § 1506.3. Consistent with the BLM's decision, OSMRE is selecting Alternative K1, as described in the FEIS (Section 2.5), based on the agencies' consideration of: the purpose and need for the action; the issues; current policies and regulations; the analysis of alternatives contained in the SFEIS; public comments received and other information in the project record.

Future amendments comprising the remaining Federal lease acreage analyzed in the BLM 2018 EIS would require additional NEPA compliance reviews by OSMRE after the amendments are submitted to UT DOGM. Future reviews would utilize the current adoption of the BLM 2018 EIS and OSMRE would be required to determine if additional NEPA analysis is warranted based on new information or circumstances. This type of NEPA compliance review is referred to as "staging" and is a common practice among Federal agencies when a larger Proposed Action is being broken into smaller parts.

OSMRE is adopting the BLM FEIS and selecting Alternative K1 in its entirety to cover the current mine plan before the agency and to potentially be used on an as needed basis for future reviews related to the lease. Alternative K1 as analyzed in the FEIS adds 2,114 acres of which approximately 1,227 acres are federal surface and mineral estate and 887 acres are split estate (private surface and federal mineral estate) for surface and underground mining activities. Under Alternative K1, the lease to be mined contains approximately 40.9 million tons of coal and an estimated 30.8 million tons of coal will be recoverable. The lease would produce approximately 2 million tons per year and continuing mining operations by approximately 16 years.

OSMRE's decision to adopt the FEIS and select Alternative K1 was made after carefully considering the contents of the FEIS, public comments, agency response to comments, and the supporting project file. The FEIS meets the standards for an adequate EIS under the Council of Environmental Quality (CEQ) regulations. OSMRE has independently evaluated the FEIS and has determined that the USFS satisfactorily addressed OSMRE's concerns, comments, and suggestions as a Cooperating Agency during the NEPA process.

4.1 Selected Alternative Compliance with Federal Laws and Executive Orders

4.1.1 National Environmental Policy Act

NEPA declares a national environmental policy and promotes consideration of environmental concerns by Federal agencies in decision making. Procedures and regulations issued by the CEQ, as authorized under NEPA, direct implementation of NEPA by Federal agencies. CEQ regulations are promulgated at 40 CFR 1500–1508, and the Department of the Interior’s (DOI)’s NEPA regulations are promulgated at 43 CFR 46 and in Department Manual 516. The OSMRE NEPA Handbook (OSMRE 1989) and the BLM NEPA Handbook (BLM 2008) also provide guidance and were considered in the preparation of the EIS.

All documentation in the project record in support of, and including the FEIS and ROD have been developed to comply with this Act, CEQ regulations at 40 CFR 1500, OSMRE policies, the OSMRE Handbook, and any requirements that evolved through the practice of NEPA, and from case law.

Finding

OSMRE finds that the decision to select Alternative K1 complies with the procedural and analytical requirements of NEPA.

4.1.2 SMCRA/State-Federal Cooperative Agreement/Mineral Leasing Act

OSMRE is a bureau within DOI charged with administration of SMCRA. SMCRA establishes a program of cooperative federalism that allows the states to enact and administer their own regulatory programs within limits established by Federal minimum standards and with prescribed oversight enforcement authority by OSMRE (30 CFR 1253). UT DOGM operates an approved state program under SMCRA and therefore has primary jurisdiction over the regulation of surface coal-mining and reclamation operations on non-Federal and non-Indian lands within the state. See 45 CFR 21560; 30 CFR 944. Under Section 1273(c) of SMCRA, a state with a permanent regulatory program approved by the DOI Secretary, such as UT DOGM, can elect to enter into a cooperative agreement for state regulation of surface coal-mining and reclamation operations on Federal lands within the state. OSMRE granted UT DOGM this authority, and UT DOGM regulates permitting and operation of surface coal mines on Federal lands within Utah under the authority of Utah Coal Mining and Reclamation Act (1979).

Finding

OSMRE finds that the decision to select Alternative K1 is consistent with SMCRA, the State-Federal Cooperative Agreement, and the MLA.

4.1.3 Endangered Species Act

OSMRE completed the Section 7 consultation process under the Endangered Species Act utilizing the previous consultation completed by BLM for the EIS on October 6, 2017 as well as completing an independent evaluation using the USFWS Information Planning and Consultation (IPAC) list. In OSMRE’s IPAC inquiry, OSMRE evaluated the potential impacts to the California Condor (*Gymnogyps californianus*), Mexican Spotted Owl (*Strix occidentalis lucida*), Southwestern Willow

Flycatcher (*Empidonax traillii extimus*), Jones Cycladenia (*Cycladenia humilis var. jonesii*) and came to a determination of no effect due to the lack of suitable habitat in the project area. OSMRE concurs with BLM's previous consultation findings to not likely jeopardize the Utah Prairie Dog, pursuant to Section 7 of the ESA of 1973, as amended (16 U.S.C. §§ 1531 et seq.) and its implementing regulations. On April 9, 2019, OSMRE consulted with the USFWS Utah Field Office, via a phone conversation, about the Utah Prairie Dog, and it was determined that no further consultation will be required for this new mining plan action.

Finding

OSMRE finds that the decision to select Alternative K1 is consistent with the Endangered Species Act. OSMRE completed an analysis under the Endangered Species Act and found one new threatened and endangered species, the Ute ladies'-tresses and made a determination of no effect.

4.1.4 Clean Air Act

This Clean Air Act (CAA) required States to develop plans to implement, maintain, and enforce primary and secondary ambient air quality standards for any criteria air pollutants, and called Federal agencies to prevent deterioration of air quality. The agencies analyze the effects on air quality as a result of this project which showed that this project would be in compliance with the National Ambient Air Quality Standards. Under Alternative K1, the maximum impacts inside of Bryce Canyon National Park from a potential mine plume would be less than the VISCREEN acceptance criteria for both color change (Delta E) and contrast (FEIS Section 4.3.3.9).

Finding

OSMRE finds that the decision to select Alternative K1 is consistent with the Clean Air Act.

4.1.5 Clean Water Act

This Act requires State and Federal agencies to control and abate water pollution. This project was designed to comply with this Act through the BLM stipulations (BLM ROD Appendix B, through the inclusion of stipulations for surface and ground water, water depletions, baseline data, and monitoring and compliance with all state and local laws).

Finding

OSMRE finds that the decision to select Alternative K1 is consistent with the Clean Water Act.

4.1.6 National Historic Preservation Act

Section 106 of the NHPA and its implementing regulations under 36 CFR 800 require all Federal agencies to consider effects of Federal actions on cultural resources eligible for or listed in the National Register of Historic Places. Traditional cultural properties are also protected under Section 106 of the NHPA.

The BLM and OSMRE, in consultation with the Utah SHPO, developed a programmatic agreement (Appendix N of the FEIS) pursuant to 36 CFR 800.14 that would provide for a comprehensive consideration of possible effects to historic properties. The BLM, in consultation with SHPO, developed a plan to involve the public and identified potential consulting parties. Potentially

interested consulting parties were contacted by a letter dated March 6, 2012, and were invited to participate in the development of the agreement. Meetings with consulting parties were held on March 22, 2012; May 16, 2012; October 4, 2012; December 13, 2012; and February 21, 2013 to discuss details of the programmatic agreement.

Finding

OSMRE finds that the decision to select Alternative K1 is consistent with the National Historic Preservation Act.

4.1.7 Executive Order 13175 – Government-to-Government Consultation with Tribes

EO 13175 requires Federal agencies to consult with American Indian tribal representatives and traditionalists on a government-to-government basis. The following affected tribes were contacted during the scoping period that occurred during preparation of the EIS: Cedar Band of Paiutes, Hopi Tribe, Indian Peak Band of Paiutes, Kaibab-Paiute Tribe, Kanosh Band of Paiutes, Koosharem Band of Paiutes, Navajo Nation, Ute Mountain Ute, Paiute Tribes of Utah, Pueblo of Zuni, San Juan Southern Paiute, and Shivwits Band of Paiutes. They requested copies of the cultural resources survey reports and indicated that they will continue formal consultation if any prehistoric cultural resources would be adversely affected by mining on the tract. As part of the government-to-government consultation process, the BLM also conducted a field visit with the Kaibab Band of Paiute Indians. Additionally, tribes were invited to participate as consulting parties in development of the Programmatic Agreement by letter dated March 6, 2012, though none elected to participate (FEIS Section 5.2.2.2). OSMRE has sent notification letters to Tribes of the Notice to Adopt the FEIS.

Finding

OSMRE finds that the decision to select Alternative K1 was made in consideration of and consistent with EO 13175.

4.1.8 Executive Order 12898 Environmental Justice

EO 12898 requires Federal agencies to identify and address, as appropriate, disproportionately high and adverse human health or environmental effects on minority and low-income populations when implementing their respective programs, including American Indian programs. OSMRE's analysis of environmental justice follows the CEQ's guidance on environmental justice and the EPA's guidance on environmental justice. The population around the project area was reviewed (FEIS Section 4.13.3.6) and for this project several communities and census tracts were identified as environmental justice populations. There would be adverse impacts to environmental justice populations for aesthetic resources, air resources and climate change, cultural resources, fire management, hazardous materials, socioeconomics, recreation, land use and grazing, transportation, water resources, and wildlife and threatened and endangered species (FEIS Table 4.12.8).

Finding

OSMRE finds that the decision to select Alternative K1 was made in consideration of and consistent with EO 12898.

4.1.9 Executive Orders 11990 and 11988

The management of wetlands and floodplains are subject to EOs 11990 and 11988, respectively. The purpose of the EOs are to avoid to the extent possible the long and short-term adverse impacts associated with the destruction or modification of wetlands and floodplains and to avoid direct or indirect effects of new construction in wetlands wherever there is a practical alternative. This order requires the OSMRE to take action to minimize destruction, loss, or degradation of wetlands, and to preserve and enhance the natural and beneficial values of wetlands. Alternative K1 would impact 11 acres of riparian area and 9 acres of floodplains/alluvial valley floor (FEIS Section 4.16.6.3). As part of UT DOGM's PAP approval there is a stipulation requiring Alton Coal Development, LLC to obtain a 404 permit from the U.S. Army Corps of Engineers before any coal mining or reclamation activities can occur in the riparian areas.

Finding

OSMRE finds that the decision to select Alternative K1 was made in consideration of and consistent with EO 11990 and 11988.

4.1.10 Executive Order 13045

Direction regarding protection of children is recognized in "Protection of Children from Environmental Health Risks and Safety Risks", April 21, 1997. Children are seldom present at coal mining facilities. On such occasions, the coal mining companies have taken and will continue to take precautions for the safety of children by using a number of means, including fencing and limitations on access to certain areas (FEIS, Section 4.12.5.5).

Finding

OSMRE finds that the decision to select Alternative K1 was made in consideration of and consistent with EO 13045.

4.1.11 Executive Order 13783

EO 13783 provides direction regarding promoting energy independence and economic growth. A protocol to estimate what is referenced as the "social cost of carbon" (SCC) associated with GHG emissions was developed by a federal Interagency Working Group (IWG), to assist agencies in addressing Executive Order (EO) 12866, which requires federal agencies to assess the cost and the benefits of proposed regulations as part of their regulatory impact analyses during rulemakings. This Order, EO 13783, disbanded the IWG on the SCC and its technical supporting documents for the SCC analysis. This order rescinded the 2013 President's Climate Action Plan, the 2014 Climate Action Plan Strategy to Reduce Methane Emissions, and the CEQ's Final Guidance on Consideration of Greenhouse Gases (GHG)'s and the Effects of Climate Change in NEPA Reviews.

Finding

OSMRE finds that the decision to select Alternative K1 was made in consideration of and consistent with EO 13783. OSMRE's decision does not rely on the SCC protocol and technical documents nor any of the rescinded reports and is therefore consistent with EO 13783. The CO₂ emissions for the Proposed Action or Alternative C would be 58,984 tons (53,510 metric tons). This total includes all on-site emissions, as well as off-site emissions from employee travel, haul truck traffic, cars and light

duty trucks, and heavy duty diesel vehicles. This represents approximately 0.0002% of the 2014 global emissions. CO₂ emissions from Alternative K1 would be equal to or less than those reported for the Proposed Action and Alternative C. Section 4.3.4.5 of the FEIS includes a more detailed discussion.

A protocol to estimate what is referenced as the SCC associated with GHG emissions was developed by a federal IWG, to assist agencies in addressing Executive Order (EO) 12866, which requires federal agencies to assess the cost and the benefits of proposed regulations as part of their regulatory impact analyses. The SCC is an estimate of the economic damages associated with an increase in carbon dioxide emissions and is intended to be used as part of a cost-benefit analysis for proposed rules. As explained in the Executive Summary of the 2010 SCC Technical Support Document “the purpose of the [SCC] estimates...is to allow agencies to incorporate the social benefits of reducing carbon dioxide (CO₂) emissions into cost-benefit analyses of regulatory actions that have small, or ‘marginal,’ impacts on cumulative global emissions.” Technical Support Document: Social Cost of Carbon for Regulatory Impact Analysis Under Executive Order 12866 February 2010 (withdrawn by EO13783). While the SCC protocol was created to meet the requirements for regulatory impact analyses during rulemakings, there have been requests by public commenters or project applicants to expand the use of SCC estimates to project-level NEPA analyses.

The decision was made not to expand the use of the SCC protocol for the BLM 2018 Alton Coal Tract Lease by Application FEIS for a number of reasons. Most notably, this action is not a rulemaking for which the SCC protocol was originally developed. Second, on March 28, 2017, the President issued Executive Order 13783 which, among other actions, withdrew the Technical Support Documents upon which the protocol was based and disbanded the earlier IWG on Social Cost of GHGs. The Order further directed agencies to ensure that estimates of the social cost of greenhouse gases used in regulatory analyses “are based on the best available science and economics” and are consistent with the guidance contained in OMB Circular A-4, “including with respect to the consideration of domestic versus international impacts and the consideration of appropriate discount rates” (E.O. 13783, Section 5(c)). In compliance with OMB Circular A-4, interim protocols have been developed for use in the rulemaking context. However, the Circular does not apply to project decisions, so there is no Executive Order requirement to apply the SCC protocol to project decisions.

Further, the NEPA does not require a cost-benefit analysis (40 C.F.R. § 1502.23), although NEPA does require consideration of “effects” that include “economic” and “social” effects. 40 C.F.R. 1508.8(b). Without a complete monetary cost-benefit analysis, which would include the social benefits of the proposed action to society as a whole and other potential positive benefits, inclusion solely of an SCC cost analysis would be unbalanced, potentially inaccurate, and not useful in facilitating an authorized officer’s decision. Any increased economic activity, in terms of revenue, employment, labor income, total value added, and output, that is expected to occur with the proposed action is simply an economic impact, rather than an economic benefit, inasmuch as such impacts might be viewed by another person as negative or undesirable impacts due to potential increase in local population, competition for jobs, and concerns that changes in population will change the

quality of the local community. Economic impact is distinct from “economic benefit” as defined in economic theory and methodology, and the socioeconomic impact analysis required under NEPA is distinct from cost-benefit analysis, which is not required.

Finally, the SCC, protocol does not measure the actual incremental impacts of a project on the environment and does not include all damages or benefits from carbon emissions. The SCC protocol estimates economic damages associated with an increase in carbon dioxide emissions - typically expressed as a one metric ton increase in a single year - and includes, but is not limited to, potential changes in net agricultural productivity, human health, and property damages from increased flood risk over hundreds of years. The estimate is developed by aggregating results “across models, over time, across regions and impact categories, and across 150,000 scenarios” (Rose et al. 2014). The dollar cost figure arrived at based on the SCC calculation represents the value of damages avoided if, ultimately, there is no increase in carbon emissions. But the dollar cost figure is generated in a range and provides little benefit in assisting the authorized officer’s decision for project level analyses. For example, in a recent environmental impact statement, OSMRE estimated that the selected alternative had a cumulative SCC ranging from approximately \$4.2 billion to \$22.1 billion depending on dollar value and the discount rate used. The cumulative SCC for the no action alternative ranged from \$2.0 billion to \$10.7 billion. Given the uncertainties associated with assigning a specific and accurate SCC resulting from 16 additional years of operation under the mining plan, and that the SCC protocol and similar models were developed to estimate impacts of regulations over long time frames, this EA quantifies direct and indirect GHG emissions and evaluates these emissions in the context of U.S. and State/County GHG emission inventories as discussed in Section 4.3 of the EIS.

To summarize, this EIS does not undertake an analysis of SCC because 1) it is not engaged in a rulemaking for which the protocol was originally developed; 2) the IWG, technical supporting documents, and associated guidance have been withdrawn; 3) NEPA does not require cost-benefit analysis ; and 4) the full social benefits of coal-fired energy production have not been monetized, and quantifying only the costs of GHG emissions but not the benefits would yield information that is both potentially inaccurate and not useful.

4.2 Other Alternatives Considered and Environmentally Preferred Alternative

4.2.1 Alternative A: No Action

Under Alternative A, the Alton Coal Tract would not be offered for competitive lease sale, and the federal coal included in the tract would not be mined. Mining on private land adjacent to the tract (i.e., the Coal Hollow Mine and North Fee Area Mine) would continue. The Coal Hollow Mine consists of approximately 635 acres of land and approximately 5 million short tons of recoverable coal leased from private surface and mineral owners. The North Fee Area Mine is on private lands adjacent to the proposed tract to the north, which ACD began mining in February 2016. The North Fee Area Mine is expected to disturb approximately 378 acres over the life of the mine.

4.2.2 Alternative B: Proposed Action

Under the Proposed Action, the Alton Coal Tract would be offered for lease at a sealed-bid, competitive lease sale, subject to lease stipulations developed for the tract. Recoverable portions of

in-place coal reserves would be mined over approximately 25 years using 1) surface-mining methods where the depth of overburden would be less than approximately 200 feet, and 2) underground methods (development mining, auger mining, highwall mining, longwall mining, and/or room and pillar mining; see Appendix D of the FEIS) where the depth of overburden would exceed approximately 200 feet. Approximately 2 million tons of coal per year would be mined once topsoil stockpiling and initial overburden removal have occurred. Some reclamation would be concurrent with mining over the course of the estimated 25-year life of the mine. At closure, a potential 10-year reclamation and revegetation monitoring period for the entire disturbed area would be anticipated.

The BLM independently evaluated the coal resources in the tract under this alternative. The BLM estimates that the tract under the Proposed Action consists of approximately 59.6 million tons of in-place coal and that an estimated 44.9 million tons of coal could be recoverable from the tract. BLM estimates that in areas where coal would be mined by surface-mining methods, approximately 90% of the estimated in-place coal reserves could be recoverable. However, in those portions of the tract that must be mined by underground mining methods, approximately 50% of the in-place coal reserves could be recoverable. These percentage recovery estimates are based on assumptions about the depth to which the use of surface-mining methods is feasible and the extent of the areas of the tract without coal.

Section 2.3 of the FEIS (Alternative B: Proposed Action) includes a detailed discussion of Alternative B and its proposed mining methods.

4.2.3 Alternative C: Reduced Tract Acreage and Seasonal Restrictions

Under Alternative C, the Alton Coal Tract would be modified to remove 403 acres to exclude mining activities. Further, certain mining activities in the south portion of the tract would be subject to seasonal restrictions to reduce impacts to the local Greater Sage-Grouse population. Under Alternative C, the modified tract would be offered for a competitive lease sale, subject to lease stipulations developed for the tract. Recoverable portions of in-place coal reserves would be mined over approximately 21 years using surface-mining methods where the depth of overburden is approximately 200 feet or less, and using underground methods (development mining, longwall mining, and/or room and pillar mining) where the depth of overburden exceeds approximately 200 feet. Approximately 2 million tons of coal per year would be mined once topsoil stockpiling and initial overburden removal have occurred. Some reclamation would be concurrent with mining over the course of the estimated 21-year life of the mine. At closure, a potential 10-year reclamation and revegetation monitoring period for the entire disturbed area would be anticipated.

The BLM independently evaluated the coal resources included in the tract under this alternative. The BLM estimates that under Alternative C, the tract includes approximately 52.1 million tons of in-place coal and that an estimated 39.2 million tons of coal could be recoverable from the tract. The BLM estimates that in areas where coal would be mined by surface-mining methods, approximately 90% of the estimated in-place coal reserves could be recoverable. However, in those portions of the tract that must be mined by underground mining methods, approximately 50% of the in-place coal reserves could be recoverable. These percentage recovery estimates are based on assumptions

regarding the depth to which the use of surface-mining methods is feasible and the extent of the areas of the tract without coal.

Section 2.4 of the FEIS (Alternative C: Reduced Tract Acreage and Seasonal Restrictions) includes a detailed discussion of Alternative C.

4.3 Alternatives Considered but Eliminated

An alternative may be considered during the environmental analysis process, but not analyzed in detail. The agency must identify those alternatives and briefly explain why they were eliminated from detailed analysis (40 CFR 1502.14). An alternative may be eliminated from detailed study if:

- It is ineffective (does not respond to the purpose and need for the proposed action);
- It is technically or economically infeasible (considering whether implementation of the alternative is likely, given past and current practice and technology);
- It is inconsistent with the basic policy objectives for the management of the area;
- Its implementation is remote or speculative;
- It is substantially similar in design to an alternative that is analyzed; or
- It would result in substantially similar impacts to an alternative that is analyzed.

A wide range of additional Alternatives were considered by OSMRE but not carried forward for detailed analysis in the FEIS. The following Alternatives were not analyzed in the FEIS (Section 2.7) because they either did not meet the purpose and need of the Project or were not considered technically feasible or economically feasible or cost-effective:

- Alternative D: Alton Coal Development's Original Lease By Application Submittal
- Alternative E: No Surface Mining
- Alternative F: Postpone Leasing Decision Until Completion Of The Kanab Field Office Resource Management Plan Revision
- Alternative G: Postpone Leasing Decision Until More Environmentally Friendly Coal Mining Practices Are Available
- Alternative H: Construct A Coal-Fired Power Plant Next To The Tract
- Alternative I: Promote The Development Of Alternative Sources Of Energy, Natural Gas, And Energy Conservation
- Alternative J: Coal Transportation Alternatives
- Alternative K2: Tract Modifications To Address Concerns Related To Greater Sage-Grouse And Big Game
- Alternative L: Tract Modifications To Address Concerns Related To Kanab Creek, Possible Alluvial Valley Floors, And Other Water Features
- Alternative M: Maximize Flexibility Of Mining Operations
- Alternative N: Nitrogen Dioxide Emissions Control Measures
- Alternative O: Restrict Mining Operations To Daylight Hours
- Alternative P: Update The KFO RMP Unsuitability Determinations Based On The Analysis In The DEIS And Reconfigure The Tract To Exclude These Areas
- Alternative Q: Air Quality Protection Alternative
- Alternative R: Restrict Coal Truck Traffic After Sunset And Before Sunrise

- Alternative S: Reconfigure The Tract To Exclude Cultural Resources Sites Eligible For The National Register Of Historic Places
- Alternative T: Seasonal Timing Restrictions And Varying Buffer-Size Restrictions For The Tract
- Alternative U: Alternative Locations
- Alternative V: Lease All Known Recoverable Coal Resources

Certain components of the federal action would be independent of the elements of any alternative. In the EIS, these were considered options, any one of which could be chosen in combination with any alternative and would not necessitate changes in the alternative, or vice versa. Those options that were considered but not carried forward for detailed analysis are listed below (FEIS Section 2.7).

- Kanab Field Office Route 116 Relocation Options
- Other Roads In The Tract
- Power Generation Options

4.4 Basis of Decision

Based on the information contained in the FEIS, the results of tribal consultation, consultations under the ESA and NHPA, and the additional considerations listed in this ROD, OSMRE has selected Alternative K1, subject to the mitigation and monitoring requirements of the BLM lease stipulations, because it achieves the project goals consistent with all applicable regulatory requirements, while minimizing potential impacts. As set forth in Section 4 of this ROD, OSMRE has determined that all applicable statutory and regulatory requirements necessary for approval of the project components addressed in the ROD have been satisfied.

Direct, indirect, and cumulative impacts are described fully by alternative in Chapter 4 of the FEIS. Effects are summarized in 2.8.1 of the FEIS. The Selected Alternative provides the best balance among the key issues and other concerns identified during the BLM public involvement process (Section 5, Public Involvement).

5.0 Public Involvement

Council on Environmental Quality regulations implementing NEPA require that federal agencies provide meaningful opportunities for the public and stakeholders to provide input and to identify their concerns during an EIS process. Federal laws such as the ESA, the CWA, and the NHPA mandate public involvement and consultation with agencies or federally recognized tribal governments. This section discusses the specific consultation and coordination efforts undertaken by the BLM and OSMRE throughout the entire process of developing the FEIS. A detailed discussion of the consultation and coordination efforts is included in Chapter 5 of the FEIS. The following entities were cooperating agencies for the EIS process pursuant to NEPA: EPA, NPS (Bryce Canyon National Park), and Kane County. BLM also created working groups for: noise modeling, socioeconomics and environmental justice, water resources, air resources, night sky impact assessment, and greater sage-grouse mitigation planning. The findings of the working groups are presented in the body of the FEIS and Appendices E, L, and K.

5.1 National Historic Preservation Act Section 106 Consultation and Government-to-Government Consultation

The BLM and OSMRE, in consultation with the Utah SHPO, developed a programmatic agreement (Appendix N of the FEIS) pursuant to 36 CFR 800.14 that would provide for a comprehensive consideration of possible effects to historic properties. The BLM, in consultation with SHPO, developed a plan to involve the public and identified potential consulting parties. Potentially interested consulting parties were contacted by a letter dated March 6, 2012, and were invited to participate in the development of the agreement. Meetings with consulting parties were held on March 22, 2012; May 16, 2012; October 4, 2012; December 13, 2012; and February 21, 2013 to discuss details of the programmatic agreement.

The programmatic agreement developed for the Alton Coal Tract LBA

- requires ongoing consultation with Indian tribes;
- defines the area of potential effects and provides processes for identification of historic properties;
- details reporting requirements and report review periods for historic property inventories and mitigation reports;
- specifies that a historic property treatment plan be developed that addresses adverse effects to historic properties and that provides measures to avoid, minimize, or mitigate those effects; and
- provides for ongoing involvement of consulting parties.

In August 2005, the BLM sent tribal consultation letters to eight tribes that were determined to have cultural ties to the area affected by the proposed lease. Of those eight tribes, the Hopi, Zuni, and Paiute Indian Tribe of Utah responded in writing. They requested copies of the cultural resources survey reports and indicated that they will continue formal consultation if any prehistoric cultural resources are adversely affected by mining on the tract. As part of the government-to-government consultation process, the BLM also conducted a field visit with the Kaibab Band of Paiute Indians. Additionally, all eight tribes were invited to participate as consulting parties in development of the programmatic agreement by letter dated March 6, 2012, though none elected to participate.

A detailed discussion of NHPA Section 106 consultation and government-to-government consultation is included in Section 5.2.2 of the FEIS (Section 106 and Government-to-government Consultations). Consultations with Native American Tribes are being conducted by OSMRE in accordance with DOI policy. Tribes will be notified of the adoption once it is published in the Federal Register.

5.2 Endangered Species Act Section 7 Consultation

Section 7 of the ESA requires federal agencies to ensure that their actions do not jeopardize the continued existence of threatened or endangered species or result in the destruction of their designated critical habitat. It also requires consultation with the USFWS in making that determination.

The BLM initiated consultation with the USFWS by informal email correspondence and teleconference meetings. The BLM obtained from the Utah Ecological Services Field Office of the USFWS a list of endangered or threatened species (or species proposed for listing) that may occur on the tract or that may be affected by mining on the tract. The BLM received a letter from the USFWS on October 6, 2017, concurring with the BLM's determination that the Selected Alternative was not likely to adversely affect threatened or endangered species and that a biological assessment was not needed.

As part of its consideration of impacts of the proposed Project on threatened and endangered species, OSMRE completed the Section 7 consultation process under the Endangered Species Act utilizing the previous consultation completed by BLM for the EIS on October 6, 2017 as well as completing an independent evaluation using the USFWS Information Planning and Consultation (IPAC) list. In OSMRE's IPAC inquiry, OSMRE evaluated the potential impacts to the California Condor, Mexican Spotted Owl, Southwestern Willow Flycatcher, and Jones Cycladenia and came to a determination of no effect due to the lack of suitable habitat in the project area. OSMRE concurs with BLM's previous consultation findings to not likely jeopardize the Utah Prairie Dog, pursuant to Section 7 of the ESA of 1973, as amended (16 U.S.C. §§ 1531 et seq.) and its implementing regulations.

5.3 EIS Public Outreach

The public scoping process was initiated on November 28, 2006, when the BLM published a notice of intent (NOI) to prepare an EIS to offer the Alton Coal Tract for competitive leasing. Five public scoping meetings were held at various locations and dates. By the end of the 90-day public scoping period, 7,788 responses were received. The bulk of these (7,352) were form letters received by email. The remainder were unique emails (167); email form letters with additional text (178); and letters received by mail, facsimile, or at scoping meetings (91).

The EPA and the BLM each published a notice of availability (NOA) for the DEIS in the *Federal Register* on Friday, November 4, 2011 (*Federal Register* 76:68501–68502). Five public meetings on the DEIS, including the public hearing on the maximum economic recovery and fair market value associated with the proposed lease sale, were held at various locations and dates. During the 85-day comment period, the KFO received 154,194 comment submittals on the DEIS. The bulk of these (144,146) were form letters (seven types). The BLM received a total of 933 unique (nonform) submittals and 9,115 form letters that had additional unique text.

The BLM's original intent was that an FEIS would be prepared following the public comment and response period on the DEIS, in which all responses to comments on the DEIS would be published in table format. However, because of the nature of comments received on the DEIS, the BLM made the decision to issue a detailed SDEIS (which included a 90-day public comment period) followed by an FEIS. As a result, the BLM has addressed the substantive comments received on the DEIS in the text, content, and analyses presented in the SDEIS and has provided a summary of responses to comments on the DEIS and more formal responses to comments on the SDEIS in Appendix C of the FEIS.

The EPA published an NOA for the FEIS on July 20, 2018, which began a 30-day availability period. BLM received two comment letters during the availability period, one from the EPA and one from several environmental organizations. BLM evaluated and considered both comment letters including the exhibits submitted from the environmental organizations. BLM determined that neither submission raised any significant new circumstances or information relevant to the environmental effects that have bearing on the proposed action or its impacts. BLM decided to hold a competitive lease sale for the federal coal in the tract as described under the Selected Alternative (Alternative K1) and issue a ROD.

5.4 Notice of Adoption

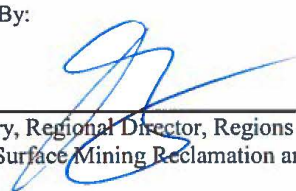
OSMRE was a cooperating agency and conducted an independent review of the FEIS. All of OSMRE's comments and suggestions were satisfied in the FEIS. Therefore, OSMRE is not required to recirculate the FEIS (40 CFR § 1506.3). OSMRE notified EPA of its intent to Adopt and EPA released a Federal Register Notice. On April 16, 2019, the Utah Physicians for a Healthy Environment, Sierra Club, Natural Resources Defense Council, National Parks Conservation Association, Grand Canyon Trust, and WildEarth Guardians filed a Complaint for Declaratory and Injunctive Relief in the U.S. District Court for the District of Utah against the BLM; however, the lease is in effect and it is appropriate for OSMRE to adopt the FEIS.

6.0 Approval

In consideration of the information presented above, OSMRE approves the ROD adopting the BLM Alton Coal Tract Lease by Application FEIS and selects Alternative K1 as the Preferred Alternative as described in the FEIS (Section 2.5). The BLM included lease stipulations which were outlined by in Appendix B of BLM's ROD to minimize environmental impacts. This action can be implemented following approval of the mining plan modification by the ASLM.

For more information about this project, contact Gretchen Pinkham by phone 303-293-5088 or email at gpinkham@osmre.gov.

Approved By:



David Berry, Regional Director, Regions 5, 7, 8, 9, 10 and 11
Office of Surface Mining Reclamation and Enforcement

6/25/19

Date: