

## **FINDING OF NO SIGNIFICANT IMPACT**

Navajo-Enterprise Brown Coal Mine Fire Mitigation Project  
eAMLIS Keys: NM-935063 and NM-935062

### **Introduction**

The Office of Surface Mining Reclamation and Enforcement – Denver Field Branch (OSMRE - DFB) has reviewed the Environmental Assessment (EA) submitted by the New Mexico Energy, Minerals and Natural Resources Department – Abandoned Mine Land Program (AMLP) in support of the Navajo-Enterprise Brown Coal Mine Fire Mitigation Project. Under Alternative 1 (Preferred Alternative), OSMRE would provide Authorization to Proceed (ATP) to AMLP to expend federal abandoned mine land (AML) grant funds to address two separate on-going coal mine fires at the Enterprise-Brown and Navajo Mines on private land near Gallup, New Mexico. Safeguarding activities would include delineating the extent of each fire through exploratory drilling and geophysical investigation. Fires would then be extinguished by excavating the burning coal seam and its overburden, quenching the burning coal by mixing it with inert material, and backfilling with the quenched material. In addition, specific adits and vents that are currently open would be closed. The selected method of adit closures would be dependent on the nature of the openings and the presence of historic and cultural resources. Under Alternative 2, the coal mine fires would continue to burn, and mine openings would be left open. Fencing totaling approximately 900 feet and warning signs would be installed around the perimeter of each project area. In addition, biennial monitoring of the project areas would be implemented to record fire temperatures and to note the development of new surface features. Under the No Action Alternative, the coal mine fires would continue to burn, mine openings would remain open, and the public would maintain the ability to access the sites without restriction or warning.

### **Reason**

The coal mine fires and mine openings within the Navajo-Enterprise Brown Coal Mine Fire Mitigation Project have been ranked as Priority 1 and 2 safety hazards by the New Mexico AMLP. This classification and the need for the Preferred Alternative are based on the physical safety hazards posed by abandoned mine features to the public. Many of the features addressed in this project are readily accessible to the public and are located in areas frequented by underserved communities. In addition, the Enterprise-Brown coal mine fire is located approximately 130 feet from the Navajo-Gallup Water Supply Project pipeline. If the fire were to increase in size, abatement would be required to protect the pipeline. Hazards to the public include wildfires, cave-ins, and exposure to toxic atmospheres.

Under the Preferred Alternative, OSMRE would authorize the New Mexico AMLP to safeguard two coal mine fires by way of exploratory drilling, geophysical investigation, excavation, quenching, and backfilling. In addition, OSMRE would authorize the closure of specific adits and vents that are currently open and pose a threat to the public. Following construction, the New Mexico AMLP would be responsible for ensuring appropriate regrading, revegetation, and monitoring of affected areas is carried out. The estimated total surface disturbance area is approximately 52 acres.

### **Context 40 CFR 1508.27(a)**

To determine whether the Preferred Alternative would have a significant effect on the human environment, impacts related to the Preferred Alternative were analyzed in terms of context and intensity based on the criteria at 40 CFR 1508.27(b). The Preferred Alternative project area is located near the City of Gallup, New Mexico, with the two mine sites being approximately 1.25 miles apart. The Navajo Mine site is near a commercial area northwest of Gallup, and the Enterprise Brown Mine site is approximately 1,000 feet north of a residential subdivision on the east side of Gallup. The project area is located on private lands in McKinley County, New Mexico. The Preferred Alternative would result in approximately 52 acres of surface disturbance. The Preferred Alternative is project specific, and any impacts would be likely realized at the local, rather than regional, national, or global levels. Affected interests include property owners whose land may be disturbed by vehicle traffic and construction.

### **Intensity 40 CFR 1508.27(b)**

*(1) The following resources were analyzed in the Navajo-Enterprise Brown Coal Mine Fire Mitigation Project EA for beneficial and adverse impacts. A significant effect may exist even if OSMRE believes that on balance the effect will be beneficial.*

#### Historic and Cultural Resources

A cultural resource inventory was conducted in the project area in 2020 which identified four sites eligible for the National Register of Historic Places (NRHP). The Preferred Alternative would employ the following measures to minimize impacts to cultural resources: identified features would be marked accordingly, fenced off, and avoided by foot and vehicle traffic around the project site, and 2 – 3-foot depressions would be left to demarcate the locations of any mine openings that are closed to mitigate the mine fire hazards. Consequently, a determination of *no historic properties affected; eligible sites present but not affected* as outlined in 36 CFR 800 was reached for the Preferred Alternative. The New Mexico State Historic Preservation Officer offered its concurrence with this determination by letter dated August 28, 2021. No sites of tribal importance are known to exist within the project area, nor were any comments received from the outreach conducted to potentially interested tribes. Alternative 2 would implement the same mitigating actions as the Preferred Alternative and would result in the same affects determination. There would be little to no impact to historic and cultural resources under the No Action Alternative.

#### Fish and Wildlife

The U.S. Fish and Wildlife Service (USFWS) was informally consulted on March 18, 2021 through its Environmental Conservation Online System – Information for Planning and Consultation (ECOS-IPaC) database. The consultation identified five threatened, endangered, or candidate species potentially located in the project area including three bird, one fish, and one plant species. Additionally, a Biological Assessment and Biological Evaluation was conducted in

November of 2020 and May of 2021 and completed in June of 2021 per 42 US Code 4332(2) (C). The Biologic Assessment and Biologic Evaluation considered all federal and state-listed plant and animal species with the potential to occur within the project area. During the Biologic Assessment and Biologic Evaluation, only one state-listed species was identified in the project area; the gray vireo. Under both the Preferred Alternative and Alternative 2, if construction could not be completed outside of the bird breeding season, defined as March 15 to September 15, a pre-construction nest survey would be conducted prior to construction activity in compliance with the Migratory Bird Treaty Act (MBTA). If any nests were found, work would be stopped and would reconvene after fledging occurs, or a nest removal permit is obtained from the USFWS. No critical habitat or wetlands were identified within the project area. Little to no impact to fish and wildlife resources is expected under the Preferred Alternative and Alternative 2. Under the No Action Alternative, there would be no impact to fish and wildlife resources.

*(2) The degree to which the Preferred Alternative affects public health or safety*

The Preferred Alternative's effect on local public health and safety would be moderate and positive. The features addressed in the project area have a history of public visitation and are located near residential and commercial areas. Visitation to the project area could result in cave-ins or exposure to toxic atmospheres. In addition, failing to mitigate the ongoing coal mine fires could lead to wildfires. Under the Preferred Alternative, AMLP would safeguard the Navajo and Enterprise Brown Coal mine fires via exploratory drilling, geophysical investigation, quenching, and backfilling. The Preferred Alternative would also safeguard specific mine openings and vents in the project area. Alternative 2 would have a minor and positive effect on public health and safety. Access to the coal mine fires and mine openings would be restricted via fencing and warning signs, but the fires would continue to burn. Under the No Action Alternative, the risk of cave-ins, exposure to toxic atmospheres, and wildfires would remain.

*(3) Unique characteristics of the geographic area such as proximity to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas.*

There are no park lands, prime farmlands, wetlands, wild and scenic rivers, wilderness areas, recreation/refuge lands, or ecologically critical areas within the Preferred Alternative project area. As such, the resources were not brought forward for analysis in the EA.

*(4) The degree to which the effects on the quality of the human environment are likely to be highly controversial.*

The Preferred Alternative and Alternative 2 would have no effects on the human environment that would be highly controversial.

*(5) The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.*

The Preferred Alternative and Alternative 2 would have no effects on the human environment that would be highly uncertain or involve unique or unknown risks. Since OSMRE's approval of the New Mexico AMLP in 1981, program staff have safeguarded numerous AML hazards across the state utilizing similar techniques as those presented under the Preferred Alternative and Alternative 2.

*(6) The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration.*

Actions under the Preferred Alternative and Alternative 2 would not establish precedent for future actions with significant effects and would not represent a decision in principle about future considerations. The issues considered in the EA were developed by the interdisciplinary team within the context of past, present, and reasonably foreseeable actions.

*(7) Whether the action is related to other actions with individually insignificant but cumulatively significant impacts. Significance exists if it is reasonable to anticipate a cumulatively significant impact on the environment. Significance cannot be avoided by terming an action temporary or by breaking it down into small component parts.*

Past activities in the project area include coal mining, the expansion of the Gallup urban area, ranching, livestock grazing, and recreational use. Under the Preferred Alternative and Alternative 2, appropriate coordination between AMLP and the contractor would help to ensure both short and long term cumulative environmental impacts are insignificant.

*(8) The degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historical resources.*

AMLP and OSMRE worked together to make determinations of eligibility and effect as required by Section 106 of the National Historic Preservation Act. The project area contains four sites eligible for the NRHP including two historic mining sites and two prehistoric Anasazi sites. Both the Preferred Alternative and Alternative 2 would have the same impacts to cultural resources. Both Alternatives would avoid the features and would fence off any features near the work site to ensure avoidance. If any historic mine openings require backfilling, a 2 – 3-foot depression will be left to indicate the location of the historic openings. As a result, the Preferred Alternative and Alternative 2 would result in *no historic properties affected; eligible sites present but not affected*. Under the No Action alternative there would be no historic properties affected.

*(9) The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973.*

Five threatened or endangered species have the potential to exist within the project area including the Mexican Spotted Owl, Southwestern Willow Flycatcher, Yellow-billed Cuckoo, Zuni Bluehead Sucker, and Zuni Fleabane. None of these species were identified during the field survey, nor does suitable habitat exist within the project area to support them. No critical habitat or wetlands exist within the project area. Little to no impact to fish and wildlife resources is expected under the Preferred Alternative and Alternative 2. The No Action Alternative would have no impact to fish and wildlife resources.

*(10) Whether the action threatens a violation of Federal, State, or local law or requirements imposed for the protection of the environment.*

The Preferred Alternative and Alternative 2 would not violate any known federal, state, local, or tribal law or requirement imposed for the protection of the environment. The Preferred Alternative and Alternative 2 are consistent with applicable plans, policies, and programs.

### **Mitigation Measures**

Under the Preferred Alternative, AMLP would ensure the following mitigation measures are implemented:

- Avoiding prehistoric artifact and feature scatters within the project area by installing temporary fencing around nearby features;
- Obtaining a National Pollutant Discharge Elimination System (NPDES) permit under Section 402 of the Clean Water Act to implement erosion control measures during construction;
- Avoiding construction activities from May 1 – July 31 to avoid potential impacts to the gray vireo, juniper titmouse, loggerhead shrike, and spotted bat;
- Completing nest surveys prior to construction beginning if work must occur within the breeding season;
- Limiting the amount of fugitive dust generated by implementing speed restrictions for vehicle access, wetting access roads, and avoiding construction activities during high-wind days;
- Inspecting and cleaning construction vehicles prior to entering the project area to limit the potential spread of noxious weeds; and
- Ensuring revegetation of disturbed areas post construction and monitoring revegetation for the presence of noxious weeds.

### **Statement of Environmental Significance**

The Preferred Alternative would not have a significant impact on the human environment and an Environmental Impact Statement is not required. Under Alternative 2, there would be no significant impact on the human environment; however, the many of the hazards associated with the on-going coal mine fires and mine openings would persist. Under the No Action Alternative, the public would be subject to potential cave-ins and exposure to toxic atmospheres in the vicinity of the project area. In addition, the threat of wildfires would remain high. The Preferred

Alternative would have a moderately beneficial impact on the local human environment. OSMRE selects the Preferred Alternative for the Navajo-Enterprise Brown Coal Mine Fire Mitigation Project.

**Reviewed**

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**Approved**

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