

United States Department of The Interior
Office of Surface Mining Reclamation and Enforcement

Trapper Mine



Trapper Mine Reclamation

Columbian Sharp Tailed Grouse



Trapper Mine

Federal Coal Leases C-07519 and C-079641
Mining Plan Modification

Finding of No Significant Impact

April 2016

Prepared by:
U.S. Department of the Interior
Office of Surface Mining Reclamation and Enforcement Program Support Division
1999 Broadway, Suite 3320
Denver, CO 80202
PH: 303-293-5000 / FAX: 303-293-5032

Prepared in cooperation with:
US Bureau of Land Management, Colorado Department of Natural Resources,
Colorado Department of Public Health and Environment, and Moffat and Rio Blanco Counties (Colorado)



**U.S. DEPARTMENT OF THE INTERIOR
OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT
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A. Introduction

The Trapper Mine is located approximately 6 miles (9.7 km) south of the City of Craig, Colorado in Moffat County, and east of Colorado State Highway 13. The Trapper Mine, Federal Coal Leases C-07519 and C-079641, Mining Plan Modification covers the portions of the leases which lie within the approved Surface Mining Control and Reclamation Act of 1977 (SMCRA) permit area (the Project) and extends from July 1, 2015, through the life-of-mine for that area. Trapper Mining Inc. (TMI) currently operates the Trapper Mine under SMCRA Permit Number C-1981-010 issued by the Colorado Division of Reclamation, Mining and Safety (CDRMS) in accordance with the approved Colorado State Coal Regulatory Program (30 CFR Part 906).

The CDRMS approved TMI's Mine Permit Revision 06 (PR06) for mining in the Project Area, which became final on October 23, 2009. The Department of the Interior (DOI) Assistant Secretary for Land and Minerals Management (ASLM), in accordance with the Mineral Leasing Act (MLA) of 1920, approved TMI's mining plan modification for mining within the federal coal leases on November 27, 2009, based on a recommendation from the Office of Surface Mining Reclamation and Enforcement (OSMRE). To date, mining and reclamation operations under PR06 have been ongoing in the approved SMCRA permit area.

As a result of a decision by the United States District Court for the District of Colorado in *WildEarth Guardians v. U.S. Office of Surface Mining Reclamation and Enforcement et al*, 104 F. Supp. 3d 1208, (D. Colo. 2015), which determined OSMRE violated the National Environmental Policy Act of 1969 (NEPA) when it recommended approval of the 2009 mining plan modification, and, pursuant to the Court-approved remedy, OSMRE agreed to re-evaluate the environmental impacts of current and future mining activities on the portion of these federal leases within the SMCRA permit boundary, beginning July 1, 2015, and continuing through the life-of-mine for that area. Prior to initiating the re-evaluation, a public outreach period occurred from October 14 through November 12, 2015, including public notices, a public meeting and the opportunity to provide comments on development of the Environmental Assessment. An Environmental Assessment was released for public comment on January 25, 2016; this Environmental Assessment was revised and finalized on April 15, 2016. During development of the Environmental Assessment, OSMRE and TMI have fully abided by the conditions of the Court-approved remedy.

B. Statement of Environmental Significance of Alternative A

Pursuant to 30 CFR Part 746, OSMRE is recommending selection and approval of Alternative A (see Section C). The undersigned person has determined that approval of a federal mining plan modification authorizing continuation of mining operations for approximately ten more years and additional surface disturbance of approximately 257 acres to recover the federal coal would not have a significant impact on the quality of the human environment under section 102(2)(C) of NEPA, 42 USC 4332(2)(C); therefore, an Environmental Impact Statement is not required.

C. Reasons

OSMRE prepared the *Trapper Mine, Federal Coal Leases C-07519 and C-079641, Mining Plan Modification Environmental Assessment* (hereafter the EA) to satisfy OSMRE's requirements under NEPA. OSMRE prepared this EA to re-evaluate the environmental effects resulting from the currently

approved mining plan modification for Federal Coal Leases C-07519 and C-079641, pursuant to the requirements of NEPA, the Council on Environmental Quality (CEQ), DOI, and OSMRE regulations and guidance regarding implementing NEPA. As part of the re-evaluation process, OSMRE will make a recommendation to the ASLM on a new decision to approve, disapprove, or approve the mining plan modification with conditions. The need for the re-evaluation in accordance with NEPA was established by a September 14, 2015 District Court-approved remedy, issued by the United States District Court, for the District of Colorado. See *WildEarth Guardians v U.S. Office of Surface Mining Reclamation and Enforcement et al*, 104 F. Supp. 3d 1208, (D. Colo. 2015). OSMRE is the lead federal agency responsible for development of the EA because it has the decision-making authority regarding a recommendation for the proposed mining plan modification under the MLA. As such, the EA follows the CEQ's, DOI's, and OSMRE's regulations and guidance for implementing NEPA. The EA analyzed the potential impacts associated with three alternatives. Alternative A – Proposed Action. Alternative A would authorize mining of approximately 19.1 million tons (mt) of federal coal at a maximum rate of 2.6 million tons per year (mtpy) and with a surface disturbance of 1,321 acres, including 257 acres of previously undisturbed land and 11 acres of re-disturbance of reclaimed land. The EA also analyzed the impacts of Alternative B – Disapproval of the mining plan modification by the ASLM. Alternative B would result in cessation of mining of federal coal within the Project Area and completion of final reclamation for the existing disturbance within the Project Area. Alternative B would not preclude mining within the SMCRA permit boundary outside of the Project Area.

Alternative C, the No Action Alternative would not result in a new mining plan decision document from OSMRE or a new decision by the ASLM. Mining would continue under the decision issued in November 2009 until or unless the 2009 decision is vacated by the District Court – a decision that could be subject to further judicial review. If the prior decision is vacated, operations at Trapper Mine would cease immediately and the effects would be equivalent to Alternative B outlined above, although TMI could continue to mine until the 2009 decision is vacated. The coal tonnage removed and the timing for the cessation of mining could vary from that outlined for Alternative B. If the 2009 decision is not vacated by a court, TMI would continue to mine in accordance with Alternative A for the life of mining within the Project Area.

The attached EA considers a reasonable range of alternatives to the Proposed Action, discloses the potential environmental effects of the alternatives, and provides sufficient evidence and support for this FONSI. The EA was prepared by a third-party consulting firm at the direction of OSMRE. During the development of the EA, OSMRE independently reviewed the document to ensure compliance with 43 CFR Part 46, Subpart D, all relevant provisions of CEQ regulations, and other program requirements. This independent review included OSMRE's evaluation of all environmental issues disclosed in the EA and also those identified in comments received from the public. OSMRE takes full responsibility for the accuracy, scope, and the content of this document.

The undersigned has determined that per the CEQ's, DOI's, and OSMRE's regulations and guidance, the public involvement requirements have been met. OSMRE conducted public outreach and received comment for the Project from October 14 through November 12, 2015. On October 29, 2015, OSMRE conducted a public outreach meeting at the Moffat County Fairgrounds in Craig, Colorado. The EA and unsigned FONSI were made available to the public for review during a 26-day comment period that ended February 19, 2016, prior to OSMRE making a final decision. An extension to this timing until March 4, 2016, was granted because some individuals who were mailed an electronic copy of the EA had the copies returned for inadequate postage. All public comments received to date have been fully considered in the EA and in reaching this FONSI.

This finding is based on the context and intensity of the Project that would be conducted as proposed under Alternative A as described in the following paragraphs.

Context: TMI proposes to meet demand for coal and continue mine operations through approximately 2025 by:

1. Securing a federal mining plan modification approval authorizing mining of leased federal coal within a previously authorized area (i.e., the portions of Federal Coal Leases C-07519 and C-079641 which lie within the SMCRA permit boundary); and
2. Continuing to mine, process, and transport coal from the mine to the adjacent Craig Generating Station.

Approval of Alternative A is a site specific action that would authorize mining of approximately 19.1 mt of federal coal at a maximum rate of 2.6 mtpy and a surface disturbance of 1,321 acres, including 257 acres of previously undisturbed land and 11 acres of re-disturbance of reclaimed land within Federal Coal Leases C-07519 and C-079641. The effects of the action have been analyzed at the local and regional scale.

Intensity: The following discussion is organized around the ten Significance Criteria described within the federal regulations at 40 CFR 1508.27. The following have been considered in evaluating the severity of impacts for this proposal:

1. Impacts that may be both beneficial and adverse:

Beneficial and adverse impacts of Alternative A are described in the attached EA. Environmental design features to reduce potential short-term and long-term impacts to topography, air quality, water resources, vegetation, fish and wildlife, threatened and endangered species, cultural resources, visual resources, and soils are incorporated into the design of Alternative A; additionally, mitigation measures related to air quality, water resources, fish and wildlife, special status species, vegetation, soils, and cultural resources are required by the state-approved mine permit, stipulations to the federal coal leases, and approved mining plan.

The Project would contribute insignificant particulate emissions, gaseous emissions, and hazardous air pollutants in comparison to the Colorado and U.S. totals. Further, the contribution of the Project to greenhouse gas emissions (GHG), both to Colorado and U.S. totals will be negligible. The direct impacts on air and climate resources from a state and U.S. comparison are considered to be negligible and adverse. Regionally (Garfield, Moffat, Rio Blanco, and Routt Counties), the comparative emissions are higher, but the region has and is expected to remain in attainment. Indirectly, the Project would contribute to criteria emissions and GHG emissions through the combustion of coal at the Craig Generating Station and potentially elsewhere. The emissions impacts resulting from the combustion of Trapper Mine coal under Alternative A would represent insignificant impacts relative to U.S. emissions and negligible impacts relative to Colorado emissions. The indirect impacts on air and climate resources are considered negligible and adverse. The direct and indirect effects to topography, geology, water resources, soils, vegetation, fish and wildlife, special status species, visual resources, and noise are considered negligible to minor, short-term and long-term, and adverse.

Alternative A would result in beneficial impacts to socioeconomics in the area of influence. There would be an extension of employment for approximately 191 employees, primarily in Moffat County, of up to ten years. Alternative A represents an estimated economic benefit to this area over the ten year life-of-mine of approximately \$200 million in wages; \$113 million in goods and services in Moffat, Routt and Rio Blanco Counties related to the mining operation; and payment of \$30 million in federal, state and local taxes. The socioeconomic benefits are derived from payroll, insurance, retirement contributions, local expenditures, taxes, and federal coal royalty payments.

None of the environmental effects discussed in the EA are considered to be significant.

2. The degree to which Alternative A affects public health or safety:

The Project Area is located on private lands and the mining activities do not cross any public roads. Public access to the areas affected by mining is limited and strictly controlled by the mine. All mine

activities with potential public exposure also would be subject to state mine permit approval and review by the Mine Safety and Health Administration, which include safety standards. Precautions for public health and safety also would be implemented during transport of equipment along public roads to and from the Project Area. Emissions and effluent limits are within approved standards, as required by State permits, thereby limiting potential impacts to public health. Noise levels at the nearest residences would be well below levels that would affect human health. Potential risks to public health and safety would be negligible and would occur over limited, brief periods.

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

There are no park lands, prime farmlands, wild and scenic rivers, or ecologically critical areas within the Project Area. Approximately 0.4 acre of wetlands have been previously disturbed within the Project Area under U.S. Army Corps of Engineers Nationwide Permit 21, permit number 199875575. Inventories of historic or cultural resources have been completed for the Project Area and one eligible site has been identified, located outside of the limits of disturbance. Four additional sites were documented within the Project Area but outside of the area of direct effects. Two of these sites were determined not eligible for listing and two of these sites have been recommended not eligible for listing. Additional discussion is included below under Item 8.

4. The degree to which the impacts on the quality of the human environment are likely to be highly controversial:

As a factor for determining within the meaning of 40 CFR 1508.27(b)(4)—whether or not to prepare a detailed environmental impact statement—“controversy” is not equated with “the existence of opposition to a use.” *Northwest Environmental Defense Center v. Bonneville Power Administration*, 117 F.3d 1520, 1536 (9th Cir. 1997). The term ‘highly controversial’ refers to instances in which “a substantial dispute exists as to the size, nature, or effect of the major federal action rather than the mere existence of opposition to a use” *Hells Canyon Preservation Council v. Jacoby*, 9 F.Supp.2d 1216, 1242 (D. Or. 1998).

The EA has analyzed the direct, indirect, and cumulative effects of the Project on climate change and determined the effects to be negligible. No other anticipated effects have been identified that are scientifically controversial. Approvals of federal mining plans and mining plan modifications have been made in the area for several decades. The design features and reclamation plan would reduce the effects on the environment; or, in some cases, would improve the current condition (e.g., soils, vegetation, and wildlife habitat).

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

There are no effects on the human environment under Alternative A that are highly uncertain or involve unique or unknown risks. OSMRE has experience implementing similar actions in similar areas.

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

This decision is not precedent setting. The issues considered in the EA were developed by the interdisciplinary team within the context of past, present, and reasonably foreseeable actions. Significant cumulative impacts are not anticipated.

7. Whether the action is related to other actions with individually insignificant but cumulatively significant impacts – which include connected actions regardless of land ownership:

The interdisciplinary team evaluated the possible issues in the context of past, present, and reasonably foreseeable actions, including past, present, and reasonably foreseeable mining for the Trapper Mine and other mining operations in the region, the transport of coal from the mine and transport and placement of coal combustion residuals within the Trapper Mine, and the combustion of that coal at the Craig Generating Station, ranching, livestock grazing, recreation, and oil and gas development. Both the indirect and cumulative effects of coal combustion at the Craig Generating Station and potentially elsewhere were disclosed in the EA. There were no significant cumulative effects identified.

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

The Project Area was surveyed for cultural and historic resources. No resources eligible for the NRHP would be directly affected and none been documented within the proposed disturbance area. One site determined eligible for listing has been identified within Project Area, located approximately 700 feet south of the proposed disturbance limit. The site will not be directly disturbed by mining operations, but could be impacted by nearby blasting vibrations. TMI has acknowledged this risk and has completed an analysis of the potential for vibration damage to the site as discussed in Section 4.11.1.2 of the EA. Based on the results of this study, TMI will be committing to the CDRMS to maintain blasting vibrations below the levels which are likely to cause damage. In addition, the SMCRA permit requires that if any mining-related activities occur within 50 feet of the site, the site would be fenced. If TMI complies with the blasting vibration recommendations and fencing requirements, the site would not be adversely affected.

Four additional sites were documented within the Project Area but outside of the area of direct effects. Two of these sites were determined not eligible for listing and two of these sites have been recommended not eligible for listing.

OSMRE notified the State Historical Preservation Office and the Eastern Shoshone, Ute, Ute Mountain Ute, Southern Ute, Navajo Nation, and Hopi tribes regarding the Project. The Hopi Tribe requested additional information on the identified cultural site which was provided by OSMRE. Based on receipt of additional information, the Hopi Tribe has indicated their concerns regarding the identified cultural site have been adequately addressed. In a subsequent letter, the Hopi Tribe recommended that if prehistoric Fremont cultural resources are identified that could be affected by future project activities, additional consultation be initiated for avoidance or treatment for those locations. The Southern Ute Indian Tribe responded indicating a potential concern with mining activities in the Project area; however, no specific information on their concerns was given. Through a letter, OSMRE responded on April 13, 2016 (EA Section 6.3).

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

Four endangered Colorado River fish species (humpback chub [*Gila cypha*], Colorado pikeminnow [*Ptychocheilus lucius*], bonytail chub [*Gila elegans*], and razorback sucker [*Xyrauchen texanus*]), and the threatened western yellow-billed cuckoo (*Coccyzus americanus*) were identified as being within the analysis area for the Project. Formal Section 7 consultation has been completed on the effects of coal combustion and subsequent mercury and selenium deposition on the Colorado River fish and western yellow-billed cuckoo in the Yampa River basin under Alternative A. The Biological Opinion

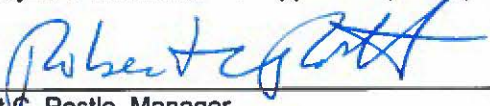
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was issued on March 22, 2016 and found that the Project is not likely to jeopardize the four endangered fish, nor is it likely to destroy or adversely modify their critical habitats (EA Appendix C). The Biological Opinion also found that the project is not likely to adversely affect the yellow-billed cuckoo and not likely to destroy or adversely modify the proposed critical habitat for the species (EA Appendix C).

Conservation measures were adopted in the Biological Opinion (EA Appendix C) and are described in the EA in Section 4.10.4. Those conservation measures would provide direct and indirect benefits to the Colorado River fish species and western yellow-billed cuckoo. Further information related to the impacts to the Colorado River fish species and proposed mitigation and conservation measures can be found in the Biological Opinion (EA Appendix C)

10. Whether the action threatens a violation of a federal, state, local, or tribal law, regulation, or policy imposed for the protection of the environment, where non-federal requirements are consistent with federal requirements:

The Project would not violate any known federal, state, local, or tribal law or requirement imposed for the protection of the environment. During the public and agency involvement for this EA, state, local, and tribal interests were given the opportunity to participate in the environmental analysis process. The Project is consistent with applicable plans, policies, and programs.



Robert C. Postle, Manager
Program Support Division
Western Region
OSMRE



Date