UNITED STATES DEPARTMENT OF THE INTERIOR
Office of Surface Mining Reclamation and Enforcement
Western Region, Interior Regions 5, 7-11, Lakewood, Colorado

FINDING OF NO SIGNIFICANT IMPACT

DOI-BLM-MT-0000-2025-0002-EA, Federal Coal Lease NDM-91535
Federal Mining Plan Modification at Freedom Mine

INTRODUCTION:

In August 2025, the Bureau of Land Management (BLM) and Office of Surface Mining Reclamation and Enforcement (OSMRE) jointly prepared an environmental assessment (EA) examining the environmental impacts of mine expansion projects at Freedom Mine, located in Mercer County near the city of Beulah, North Dakota. *See* EA DOI-BLM-MT-0000-2025-0002-EA**.** Freedom Mine is operated by the Coteau Properties Company (Coteau) and has been producing lignite coal using conventional surface mining methods since 1983. Coal mined at Freedom Mine is supplied to Dakota Gasification Company's Great Plains Synfuels Plant, Antelope Valley Station coal-fired power plant, and Leland Olds Station coal-fired power plant. All three plants are expected to operate until 2045 commensurate to the projected life of Freedom Mine.

The EA discloses and analyzes the potential effects on the environment of issuing a Federal Coal Lease for the proposed Lease-by-Application NDM-111186 and approval of the federal mining plan modification associated with Federal Coal Lease NDM-91535 by the Assistant Secretary of Land and Minerals Management (ASLM). The EA examines a No Action Alternative, BLM's proposed leasing action (Alternative B), an alternative that considers additional coal resources (Alternative C), and OSMRE's federal mining plan modification action (Alternative D). Alternative D includes two tracts from previously issued Federal Coal Lease NDM-91535 representing 640 acres and 8.4 million tons of Federal coal resources. OSMRE's proposed action is to recommend that the ASLM approve the federal mining plan modification so that Coteau can exercise its rights under Federal Coal Lease NDM-91535.

BLM issued Federal Coal Lease NDM-91535 to Coteau on June 1, 2006, and subsequently, Coteau applied for and received ASLM's approval for two mining plan modifications to develop Federal coal from portions of Federal Coal Lease NDM-91535. First, in April 2011, ASLM approved a mining plan modification allowing the disturbance of an additional 1,748 acres and 42.9 million tons of recoverable Federal coal from NDM-91535. Then, in May 2016, ASLM approved a second mining plan modification allowing 960 acres of disturbance and mining of 25.6 million tons of recoverable Federal coal from NDM-91535.

North Dakota Public Service Commission (PSC), the state regulatory authority authorized to regulate surface coal mining operations on Federal lands in North Dakota under the Surface Mining Control and Reclamation Act of 1977 (SMCRA), approved Coteau's application for a permit revision to add Federal coal resources from Federal Coal Lease NDM-91535 to existing State Coal Mining Permit NACT-0201 mining plan through Revision 28 and Renewal 4 on April 10, 2024, pending ASLM's approval of the federal mining plan modification before commencing coal development activity.

In consultation with the BLM, on February 23, 2024, OSMRE determined that Revision 28 and Renewal 4 to State Permit NACT-0201, which sought to add two coal tracts covering approximately 640 acres and 8.4 million tons of Federal coal to the federal mining plan, constituted a mining plan modification requiring approval from the ASLM.

The area where the proposed surface mining and reclamation activities will occur is located in the northwest portion and the southwest corner of Federal Coal Lease NDM-91535. The areas proposed for mining are legally described as:

Township 145 North, Range 88 West, Section 4: E ½ (320 acres)
Township 144 North, Range 89 West, Section 12: E ½ (320 acres)

PROPOSED ACTION

Under Alternative D in the EA, OSMRE and BLM evaluated the environmental effects of a recommendation from OSMRE that the ASLM approve the proposed federal mining plan modification to add 640 acres and 8.4 million tons of Federal coal from Federal Coal Lease NDM-91535 to Coteau's federal mining plan. The coal tracts consist of federal minerals overlain by privately-owned surface. The proposed tracts are within the existing boundary of the State Permit NACT-0201.

The analysis of Alternative D assumed that mining of the 8.4 million tons of coal from the Federal lease tracts would occur at a rate of approximately 1.7 million tons per year for 5 years. In the event that the mining plan modification is not approved, the analysis assumed that Coteau will adjust their mining sequences to avoid the 8.4 million tons of Federal coal from Federal Coal Lease NDM-91535 and mine available adjacent state and private coal. Because Coteau has access to additional state and private coal to meet anticipated coal demands, the approval of the mining plan modification is not anticipated to extend the life of mine; however, mining only the non-Federal coal is expected to be less economically efficient and potentially extend the overall footprint of the surface disturbance.

FINDING OF NO SIGNIFICANT IMPACT:

This Finding of No Significant Impact (FONSI) is based on OSMRE's consideration of the permit application package associated with Revision 28 and Renewal 4 to State Permit NACT-0201, the attached EA (DOI-BLM-MT-2025-0002-EA), the requirements of the National Environmental Policy Act (NEPA) (42 U.S.C. §§ 4321 *et seq*.), and the Department of the Interior's (DOI) Handbook of National Environmental Policy Act Implementing Procedures. This FONSI documents OSMRE's determination that Alternative D, ASLM approval of the proposed federal mining plan modification, will not significantly affect the quality of the human environment, and, consequently, an environmental impact statement (EIS) is not required. This finding is based on the degree of the effects described in the following sections within the identified affected environment.

DEGREE OF EFFECTS:

In considering the degree of effects, the Responsible Official considered the (1) short- and long-term effects; (2) beneficial and adverse effects; (3) effects on public health and safety; (4) economic effects; and (5) effects on the quality of life of the American people.

i. Short- and long-term effects

The proposed action would not authorize a change in the current air quality permit or in production levels. Emission of air pollutants at Freedom Mine are limited by its production rate. In the event that Coteau does not receive approval to mine the Federal coal in Alternative D, it would continue its mining operations using state or private coal estates; therefore, there would be no incremental short- or long-term increase in annual air emissions from implementation of the proposed action. The proposed action would result in criteria pollutants and hazardous air pollutants being emitted, but no National Ambient Air Quality Standard exceedances or near exceedances are expected to occur. As of the publication of this FONSI, there are no established thresholds to assess the greenhouse gas (GHG) emissions of an action in terms of the action's effect on climate, incrementally or otherwise. There are also no established thresholds, tools, or methods that would allow OSMRE to conclude whether the GHG emissions associated with this proposed action, or any reasonable alternatives, may result in significant environmental effects.

The North Dakota Department of Water Resources regulates the use of surface water and groundwater for North Dakota. The North Dakota PSC enforces the monitoring of surface water reclamation, groundwater recharge, and overall protection of water quality from the effects of mining. OSMRE does not anticipate any significant effects on water quantity or quality. Surface water quality impacts are expected to be short-term and negligible.

The BLM and OSMRE determined that Coteau's surface coal mining operations within the Area of Potential Effects may have an adverse effect upon historic properties included or eligible for inclusion in the National Register of Historic Places and consulted with the Advisory Council on Historic Preservation (ACHP) and the State Historic Preservation Officer (SHPO) pursuant to Subsection 800.14 of the regulations (36 C.F.R. Part 800) implementing section 106 of the National Historic Preservation Act (NHPA) (54 U.S.C. 306107). Adverse effects to historic properties that are mitigated and mined through may include long term effects to all aspects of historical integrity. Adverse effects to historic properties that are avoided or set aside may include short term effects to the setting and feeling aspects of integrity and long-term effects to the association aspect of integrity. A stipulation was added to the lease in 2004 that requires Coteau to meet the terms of a Programmatic Agreement (PA) executed between the BLM, OSMRE, the North Dakota PSC, the North Dakota SHPO, and the ACHP to ensure compliance with the NHPA before any surface disturbing mining activities could occur. The PA provides treatment strategies to resolve adverse effects through avoiding, minimizing, or mitigating the effects on the historic properties caused by Coteau's surface coal mining operations. Long term mitigation strategies include preservation of important sites and their settings through set-asides, creating inventory of evaluated historic properties, and other mechanisms, as appropriate.

On March 17, 2025, the U.S. Fish and Wildlife Service (USFWS) concurred with the BLM and OSMRE determination that the proposed action "may affect but is not likely to adversely affect" the endangered northern long-eared bat and whooping crane, and the threatened Dakota skipper, piping plover, and rufa red knot. The USFWS also determined that the proposed action is "not likely to jeopardize" the western regal fritillary, monarch butterfly, or Suckley's cuckoo bumble bee. No critical habitats for these species exist within the project location; therefore, no short- or long-term adverse effects are anticipated. Initial mining activities would remove foraging areas for big game and result in short-term negligible adverse effects. Reclamation performance standards required by State Permit NACT-0201 will restore big game habitat.

ii. Beneficial and adverse effects

In addition to the short- and long-term effects discussed above, OSMRE considered other beneficial and adverse effects. Beneficial effects include revenues to State, counties, cities, school districts, and other entities across the state derived directly and indirectly from taxes and royalties on the production of Federal coal, including revenue from Coteau's Freedom Mine. Such revenues include ad valorem taxes, severance taxes, state and federal royalty payments, coal conversion facilities privilege tax, sales and use taxes on equipment and other taxable purchases, and portions of required contributions to the federal Abandoned Mine Reclamation Fund and Black Lung Disability Trust Fund. Summary of beneficial economic effects of coal mining is further elaborated below in *Economic Effects* section of this FONSI.

Although fugitive dust control measures are a required element of the proposed action, fugitive dust and particulates generated from mining operations in the project area will result in some minor and short-term, adverse air quality impacts. The primary sources of fugitive dust will result from windblown sources, coal conveyors, and from traffic on haul roads. Methods to mitigate dust emissions include watering, restricting operations to acreage strictly necessary to accommodate production needs, and stabilizing disturbed areas as soon as possible after operations are completed through replacement of suitable plant growth material, seeding, and mulching. Other sources of direct emissions from mining are fugitive emissions from coal excavation and the exhaust emissions from equipment used during mining and reclamation operations. The Freedom Mine has an Air Pollution Minor Control Permit to Operate as required by the North Dakota State Department of Health. This permit requires the mine to maintain an ambient air quality monitoring and meteorological monitoring program. Coteau submits an air emission report for sources generating reportable emissions annually.

Coteau's hydrologic reclamation plan, approved as a part of the State Permit NACT-0201, addresses and mitigates any potential adverse impacts identified in the probable hydrologic consequences determination and contains the preventative and remedial measures for those impacts. Although postmining reclamation will ensure all adverse impacts to the availability of groundwater delivery system are adequately restored to pre-mining conditions, Freedom Mine's State Permit NACT-0201 identifies wells and developed springs that may be affected during mining. Using the best technology currently available and, as required by North Dakota's Administrative Code (NDAC 69-05.2-16-01(a)), the Freedom Mine has been designed to minimize disturbance to the hydrologic balance within the permit and adjacent areas and prevent material damage outside the permit area. However, should any adverse effects occur to in-use water supplies, Coteau must replace those supplies. Coteau monitors the natural drainageways downstream from their sedimentation ponds for agricultural activities that may be adversely affected by sedimentation pond discharges.

iii. Effects on public health and safety

The proposed action, through permit conditions attached to Freedom Mine's State Permit NACT-0201, will minimize impacts on public health and safety. The project area is located entirely on private surface lands, and the mining activities do not cross any public roads. Public access to the area affected by mining is strictly controlled by the mine. Precautions for public health and safety are required during transport of equipment along public roads to and from the project area as outlined in the state approved SMCRA permit. Emission and effluent limits are within authorized standards, as required by applicable laws and permits, limiting potential adverse impacts to public health. Noise levels at the nearest residences are expected to be well below levels that would affect human health. After full reclamation has occurred, no public health or safety concerns are expected, and the surface would be suitable for its pre-mining uses of native grassland, cropland, wetlands, and road uses. There are no anticipated impacts on the human environment that are deemed highly uncertain or associated with unique or unknown risks.

There are no unique or unknown risks associated with surface coal mining in southcentral North Dakota. Mining in this area has occurred for decades and any impacts are well understood. The environmental effects to the human environment are fully analyzed in the EA, and no activities as part of the proposed action would be considered highly uncertain or involve unique or unknown risks.

Under proposed action, operations at downstream coal combustion sites – Antelope Valley Station, Leland Olds Station, and Great Plains Synfuels Plant – would continue unchanged. The amount of coal extracted at Freedom Mine and delivered to the downstream facilities is expected to continue at the same pace as current production levels regardless of whether the proposed action is approved. In the event that the proposed action does not receive approval, Federal coal will be bypassed and other non-Federal coal will be mined and combusted. The indirect effects of coal combustion at downstream combustion sites from the proposed action are not expected to cause National Ambient Air Quality Standard criterial pollutant exceedances or near exceedances, contribute to unacceptable detriment to ambient air quality values (including visibility and acid deposition impacts) within the 50 kilometers buffer around the combustion sites, or cause increases in cancer risk or health indices (including hazardous air pollutant impacts); therefore, indirect effects to air quality due to coal combustion are not expected to be significant.

iv. Economic effects

Coal produced from the Federal mineral estate is subject to royalty payments and disbursements under the Mineral Leasing Act. The current federal royalty rate for surface-mined coal is 12.5% of the gross sales value of the coal produced and is paid to the Department's Office of Natural Resource Revenue (ONRR); however, section 39 of the MLA, as amended and supplemented (30 U.S.C. § 209), authorizes the Secretary of the Interior to temporarily permit royalty rates that are lower than the legal minimum federal royalty rate (12.5%). Section 50202(a) of the One Big Beautiful Bill Act (Pub. L. No. 119-21) amended section 7(a) of the Mineral Leasing Act (30 U.S.C. § 207(a)) so that the statute now provides that the royalty rate "shall be not more than 7 percent during the period that begins on the date of enactment of the [One Big Beautiful Bill Act] and ends September 30, 2034."

Royalties are paid by mining companies to the federal government, which in turn dispenses them to the state of origin, typically at the rate of 50%. In calendar year 2022, the State of North Dakota reported $2,072,319 in Federal coal rents and royalty payments to ONRR. County level royalty disbursement data are not released by the federal government; however, Mercer County reported $1,349,870 in Federal coal rents, bonuses, and royalty payments to ONRR in 2022. No Federal coal rents or royalties were paid by Coteau to ONRR between 2013 and 2022.

Distribution of coal royalty revenues from the state are distributed from the North Dakota's Coal Development Fund. Thirty percent of the distributed funds are placed into a Constitutional Trust Fund administered by the Board of University and School Lands. These funds are used to supply loans to school districts, cities, or counties impacted by coal development. Seventy percent of the distributed coal royalty revenues are provided to the counties apportioned by the amount of coal each county produces. This revenue is distributed to the county's general fund (40%), cities within the county (30%), and school districts within the county (30%). In 2022, Mercer County's annual budget actuals reported a total general fund revenue of $6,511,696, of which approximately $1,161,000 was derived from coal severance tax revenue and $1,230,000 came from coal conversion tax revenue disbursed from the state. These tax revenues represent approximately 37% of the county's general fund revenue.

Under Alternative D, 8.4 million tons of coal would be mined from the Federal lease tracts at an average rate of 1.68 million tons per year for 5 years. Under the baseline 12.5% Federal royalty rate, the Federal royalties generated by Alternative D would contribute an annual average of approximately $956,000 to Mercer County's general fund for 5 years, representing approximately 14.7% of Mercer County's 2022 general fund revenues. If the reduced Federal royalty rate of 2.2% is applied (through a category 5 royalty rate reduction process due to market conditions), royalties from the 8.4 million tons of coal mined from the Federal lease tracts would contribute an annual average of approximately $168,000 to Mercer County's general fund for 5 years, representing approximately 2.6% of Mercer County's 2022 general fund revenues. OSMRE concludes that fiscal effects resulting from the mining industry play an integral role in socioeconomics of the surrounding counties as well as the North Dakota as a whole.

v. Effects on the quality of life of the American people

Among other things, Executive Order 14261 (*Reinvigorating America's Beautiful Clean Coal Industry*) provides that the Federal government "must encourage and support our Nation's coal industry to increase our energy supply, lower electricity costs, stabilize our grid, create high-paying jobs, support burgeoning industries, and assist our allies." The proposed action will help to accomplish those objectives by authorizing continued domestic coal production. As this EO recognizes, coal is a key part of the national energy mix and is critical to meeting the Nation's rising energy demand.

In addition to the national interests served, coal mining and the economic revenue benefits associated with coal mining are vital to the regional economy of North Dakota. For example, there are 391 full-time and 97 temporary employees at the Freedom Mine. Although the proposed action will not directly result in increased employment numbers, it will protect the continued employment for these employees. The proposed action is anticipated to add incrementally to the revenue, taxes, indirect employments, demographics, or housing in the socioeconomic analysis area.

For the reasons outlined in this analysis, OSMRE finds that the proposed action will not have a significant impact on the human environment and that no EIS is required.

Approved by:

MARCELO CALLE

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Marcelo Calle, Acting Regional Director,
OSMRE Western Region