

U.S. DEPARTMENT OF THE INTERIOR  
OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT  
FINDING OF NO SIGNIFICANT IMPACT  
Coyote Creek  
Federal Coal Lease Serial Number: NDM-110277  
Federal Mining Plan

**A. Introduction**

Coyote Creek Mining Company (CCMC) owns and operates the Coyote Creek Mine in Mercer County, North Dakota, that is approximately 5 miles south of Beulah, North Dakota. CCMC proposed a lease by application (LBA) for federal coal resources underlying private surface lands in Mercer County, North Dakota. The lease area (referred to herein as LBA Tracts; serial number NDM-110277) consists of approximately 284 acres of private surface lands and federal minerals managed by the Bureau of Land Management (BLM) in the following locations:

- SW ¼ Section 24, Township 143N, Range 89W (125 acres)
- SE ¼ Section 26, Township 143N, Range 89W (158.5 acres)

CCMC submitted the final LBA to the BLM on December 13, 2017. The BLM issued federal lease NDM-110277 to CCMC on November 1, 2020. CCMC currently operates the Coyote Creek Mine under Permit NACC-1302, which was approved by the North Dakota Public Service Commission (PSC).

The LBA Tracts in Sections 24 and 26 are within Coyote Creek Mine's permit area that was approved by the PSC (NACC-1302). On September 1, 2021, the PSC approved Revision 11 to Permit NACC-1302, which incorporated the federal coal in federal lease NDM-110277 into the state mining permit.

All coal from the Coyote Creek Mine is currently supplied to the Coyote Station coal-fired power plant adjacent to the permit area. The Coyote Station is jointly owned by the Otter Tail Power Company, Northern Municipal Power Agency, Montana-Dakota Utilities Company, and NorthWestern Energy. The Proposed Action would not change production levels at the Coyote Station or require changes to its current regulatory permits. If the mining plan is disapproved, the Coyote Station will continue to operate and be supplied with non-federal coal from other Coyote Creek Mine production areas. As needed, the Coyote Station would operate independently of the coal in the LBA Tracts. Although the Coyote Station is not considered a connected action, operating data from the power plant were evaluated to provide context and assist with analyzing the reasonably foreseeable future action of coal combustion sourced from the LBA Tracts.

In accordance with the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. §§ 4321 *et seq.*, the Office of Surface Mining Reclamation and Enforcement (OSMRE) prepared the accompanying *Coyote Creek Mine Emergency Lease of Federal Coal, Serial Number: NDM-110277 Supplemental Environmental Assessment* (hereafter, the SEA), to address

proposed mining activities affecting LBA Tracts in Sections 24 and 26 at the Coyote Creek Mine. The SEA provides an updated analysis of greenhouse gases and climate change impacts, including the potential social cost of greenhouse gases, that would be associated with the approval of the federal mining plan, i.e., the Proposed Action, or selection of the No Action Alternative. The SEA also incorporates by reference the analyses in the *Coyote Creek Mine Lease by Application for Emergency Lease Sale of federal Coal*, Serial Number: NDM-110277 Environmental Assessment (hereafter 2020 EA) (reference (1)).

## **B. Statement of Environmental Significance of the Proposed Action**

This Finding of No Significant Impact (FONSI) is issued in conjunction with OSMRE's review of the LBA Tracts, in light of the assessment of the 2023 SEA, 2020 EA, and 2023 Biological Assessment (BA). Under 30 C.F.R. § 746.13, the OSMRE recommends selecting and approving the Proposed Action for the reasons described in Section C, below. The undersigned person determined that approval of a federal mining plan authorizing the mining and recovery of the federal coal would not have a significant impact on the quality of the human or natural environment under NEPA Section 102(2)(C), 42 U.S.C. § 4332(2)(C); therefore, an environmental impact statement (EIS) is not required.

## **C. Reasons for a Finding of No Significant Impact**

The OSMRE prepared the SEA to satisfy its requirements under NEPA. The SEA evaluates the potential social cost of greenhouse gases that would be associated with the approval of the federal mining plan, i.e., the Proposed Actions, or selection of the No Action Alternative. The SEA was prepared according to the requirements of NEPA; the Council on Environmental Quality (CEQ), Department of the Interior (DOI), and the federal regulations; and guidance regarding NEPA implementation. As part of the evaluation process, the OSMRE will make a recommendation to the Assistant Secretary, Land and Minerals Management (ASLM), on a new decision to approve, disapprove, or conditionally approve the federal mining plan.

The OSMRE is the lead federal agency responsible for developing the SEA because, under the Mineral Leasing Act (MLA), the OSMRE will prepare a mining plan decision document (MPDD) in support of its recommendation to the ASLM regarding federal mining plans or mining plan modifications to either approve, conditionally approve, or deny the proposed mining plan. The ASLM will decide whether the mining plan is approved, conditionally approved, or disapproved. The Proposed Action would authorize mining approximately 5.2 million tons of federal coal. If the 5.2 million tons of federal coal from the LBA Tracts are mined continuously, it will represent approximately 24 months of coal production at the Coyote Creek Mine at the maximum mining rate of 2.6 million tons per year. However, the Coyote Creek Mine plans to mine this federal coal more slowly, blending federal coal with non-federal coal, over approximately 13 years. The projected mine life and operating plans of the Coyote Creek Mine, whether the ASLM approves the federal mining plan for the LBA Tracts, are anticipated to

extend through the year 2040. Therefore, the Proposed Action is a continuation of current surface mining.

The SEA also analyzed the impacts of the No Action Alternative. Under the No Action Alternative, the OSMRE would not recommend, and the ASLM would not approve the proposed mining plan. However, mining would continue at the Coyote Creek Mine under existing permits, and non-federal coal would continue to be provided to the Coyote Station to generate electricity.

The attached SEA and the 2020 EA incorporated by reference in the SEA disclose the potential environmental effects of the Proposed Action and provide sufficient evidence and support for this FONSI. The SEA was prepared by a third-party consulting firm at the direction of the OSMRE. During the SEA development, the OSMRE independently reviewed the document to ensure compliance with 43 C.F.R. part 46, Subpart D, and all relevant provisions of CEQ regulations and other program requirements. This independent review included the OSMRE's evaluation of all environmental issues disclosed in the SEA and those identified in comments received from the public. The OSMRE takes full responsibility for the SEA's accuracy, scope, and content.

The undersigned has determined that, per the CEQ, DOI, and OSMRE regulations and guidance, the public involvement requirements have been met. The OSMRE conducted a 30-day public comment period for the SEA and unsigned FONSI from December 7, 2023 to January 5, 2024. All substantive public comments received to date have been fully considered in the SEA and in reaching this FONSI. Appendix B of the SEA includes the public comments received and the OSMRE's responses.

This FONSI is based on the potentially affected environment and degree of the effects of the Proposed Action per 40 C.F.R. § 1501.3(b).

**1. The affected area (national, regional, or local) and its resources, such as listed species and designated critical habitat under the Endangered Species Act:**

The potential to affect federally threatened or endangered species as well as proposed and final designated critical habitat that may occur within the designated analysis areas was evaluated by preparing a BA in 2023 to fulfill the requirements of the U.S. Fish and Wildlife Service (USFWS) under section 7(c) of the Endangered Species Act of 1973 (ESA). The OSMRE made the following effects determinations to threatened and endangered species or critical habitat as a result of the Proposed Action.

Finding of No Significant Impact

Species or Critical Habitat	Scientific Name	Species Listing Status	Effect Determination
Dakota skipper	<i>Hesperia dacotae</i>	Threatened	May affect, not likely to adversely affect
Northern long-eared bat	<i>Myotis septentrionalis</i>	Endangered	May affect, not likely to adversely affect
Pallid sturgeon	<i>Scaphirhynchus albus</i>	Endangered	May affect, not likely to adversely affect
Piping plover	<i>Charadrius melodus</i>	Threatened	May affect, not likely to adversely affect
Rufa red knot	<i>Calidris canutus rufa</i>	Threatened	May affect, not likely to adversely affect
Whooping crane	<i>Grus americana</i>	Endangered	May affect, not likely to adversely affect

The BA was submitted to the USFWS on January 18, 2024 for review and concurrence. The USFWS responded to the agencies’ BA with a letter on January 24, 2024, concurring with the determination of effects for the species listed above.

**2. Short- and Long-term Effects**

The OSMRE evaluated the possible issues in the context of reasonably foreseeable activities, including mining of federal coal, combustion of that federal coal at the Coyote Station, and the associated social cost of greenhouse gases.

The SEA determined that disapproving the Proposed Action would not reduce global emissions in any meaningful way because the No Action Alternative has a very similar, but not perfectly identical, emissions profile. Under both the Proposed Action and the No Action Alternative, the same amount of coal is expected to be mined at the same annual rate, until 2040. Mining the federal coal under the Proposed Action would allow CMCC to pursue a more cost-effective mining sequence but is not anticipated to create an incentive or opportunity to mine additional coal. Any non-federal coal not mined under the Proposed Action is not expected to be mined at a later time, such as after 2040 when the mine is slated for closure. Therefore, while climate change does significantly impact the environment and the Proposed Action would produce climate changing emissions, there is no indication that the amount of greenhouse gas emissions from the Proposed Action as compared to the No Action Alternative would have a significant impact on climate change.

The Proposed Action is consistent with previous approvals of federal mining plans and mining plan modifications that have been made in the area for several decades. No other anticipated effects have been identified that are scientifically controversial. Overall, there were no significant effects identified for the Proposed Action.

**3. Beneficial and Adverse Effects**

Impacts of the Proposed Action are described in the attached SEA. The Proposed Action does not extend the life of the Coyote Creek Mine or change the mining rate; therefore, the overall annual amount of direct emissions is also not anticipated to increase from current levels with the Proposed Action. The Proposed Action would directly and indirectly contribute to greenhouse

gas emissions through activities at the Coyote Creek Mine and the coal combustion at the adjacent Coyote Station. Indirect emissions from burning the LBA Tracts' coal would not change the total annual emissions at the Coyote Station because that coal will be similar to coal already being delivered, power production will be within permitted limits, and the amount of coal produced at Coyote Creek Mine and continuing to be delivered to the station would be essentially unchanged from current production levels already permitted under the No Action Alternative.

The social cost of greenhouse gases from the Proposed Action is estimated to range from \$120.6 million to \$1.2 billion based on the Interagency Working Group's (IWG) *Technical Support Document: Social Cost of Carbon, Methane, and Nitrous Oxide: Interim Estimates under Executive Order 13990* (reference (2)). The IWG Interim SCC Report updated previous guidance from 2016. For federal agencies, the best currently available estimates of the social cost of greenhouse gases are the interim estimates of the social cost of carbon dioxide, methane, and nitrous oxide developed by the IWG. The estimated social cost of greenhouse gases for the Proposed Action is the same as is estimated for the No Action Alternative because the Proposed Action does not increase the coal mining rate, does not require additional mining equipment, and does not increase coal combustion by the Coyote Station. The Proposed Action provides federal coal reserves to the Coyote Creek Mine, but the mine will continue operating at the current rate and providing private coal to the Coyote Station at the current rate. In other words, the Proposed Action does not cause an incremental increase in direct or indirect greenhouse gas emissions or potential associated social costs. Accordingly, emissions under the Proposed Action and any associated effects, monetized or otherwise, would not by definition produce any significant effects relative to the No Action Alternative. In any event, OSMRE currently lacks peer reviewed science or a similarly robust management tool allowing the agency to establish thresholds to determine the significance of quantifiable greenhouse gas emissions or social cost of an action in terms of the action's propensity to affect the climate, incrementally or otherwise.

There are no established thresholds for NEPA analysis to contextualize the quantifiable greenhouse gas emissions or social cost of an action in terms of the action's propensity to affect the climate, incrementally or otherwise. That said, the OSMRE acknowledges that all greenhouse gases contribute incrementally to climate change and cumulatively climate change significantly impacts the environment. However, disapproving the Proposed Action would not reduce global emissions in any meaningful way because the No Action Alternative has a very similar emissions profile. Therefore, while climate change does significantly impact the environment and the Proposed Action would produce climate changing emissions, there is no indication that the amount of greenhouse gas emissions from the Proposed Action would have a significant impact on climate change when compared to the No Action Alternative.

None of the environmental effects discussed in the SEA or the 2020 EA incorporated by reference in the SEA are considered to be significant.

#### **4. Effects on Public Health and Safety**

The 2020 EA (reference (1)) evaluated emissions and effluent limits and confirmed they are within approved standards, as state permits require, thereby limiting potential impacts on public health. Potential risks to public health and safety would be negligible and occur over limited, brief periods. After full reclamation occurs, no public health or safety concerns are expected.

#### **5. Effects that Would Violate Federal, State, Tribal, or Local Law Protecting the Environment**

The Proposed Action's effects would not violate federal, state, tribal, or local laws protecting the environment. The Proposed Action is consistent with applicable plans, policies, and programs. As described in section 1.3 of the SEA, the Proposed Action is compliant with known federal, state, tribal, or local laws. The public, as well as state, tribal, and local stakeholders were given the opportunity to comment on the draft SEA. The OSMRE re-initiated ESA Section 7 consultation the outcome of which is described in Section 1 of this FONSI. The OSMRE sent tribal consultation letters to the governments of the following Native American Nations that could be affected by the Proposed Action, inviting the following Tribes to consult on the Proposed Action.

- Crow Tribe
- Crow Creek Sioux Tribe
- Cheyenne River Sioux Tribe
- Flandreau Santee Sioux Tribe
- Fort Belknap Indian Community
- Fort Peck Assiniboine and Sioux Tribes
- Lower Brule Sioux Tribe
- Lower Sioux Indian Community
- Mandan, Hidatsa, and Arikara Nation
- Northern Cheyenne Tribe
- Oglala Sioux Tribe
- Rosebud Sioux Tribe
- Santee Sioux Nation
- Sisseton-Wahpeton Oyate of the Lake Traverse Reservation
- Spirit Lake Sioux Tribe
- Standing Rock Sioux Tribe
- Turtle Mountain Band of Chippewa
- Yankton Sioux Tribe

The OSMRE did not receive comments or requests for formal consultation from Tribes.

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Marcelo Calle, Manager  
Program Support Division  
Unified Regions 5, 7, 8, 9, 10 and 11  
OSMRE

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Date