

Skyline Mine Flat Canyon Coal Lease Tract
Mining Plan Modification
Finding of No Significant Impact
April 2017



Prepared in Cooperation with the Bureau of Land Management, US Forest Service, and Utah Division of Oil, Gas and Mining

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Introduction

The Office of Surface Mining and Reclamation Enforcement (OSMRE) has completed the environmental review of the Skyline Mine Flat Canyon Coal Lease Tract Mining Plan Modification proposal under the National Environmental Policy Act (NEPA).

Canyon Fuel Company has operated the Skyline Mine since 1981 under Utah Division of Oil, Gas and Mining (DOG M) Permit C0070005. Skyline is an underground coal mine located near Helper, Utah. The Flat Canyon Federal Coal Lease Tract UTU-77114 is in Sanpete County, Utah. Private coal resources located in Sanpete and Emery Counties are directly adjacent to the Flat Canyon Federal Coal Lease Tract UTU-77114 and would be mined via access through the lease.

On February 27, 2015, Canyon Fuel Company, LLC submitted a significant revision to the Utah DOGM. The Utah DOGM is reviewing Skyline Mine's permit amendment, and will submit the Canyon Fuel Company permit application package (PAP) for the mining plan modification to the OSMRE for review, in accordance with its responsibilities under the federal Surface Mining Control and Reclamation Act of 1977 (SMCRA).

The U.S. Forest Service, Manti-La Sal National Forest, and the BLM Utah State Office, with OSMRE as a cooperating agency, completed a Final Environmental Impact Statement (FEIS) reviewing the impacts of the federal coal leasing action (US Forest Service, 2002a), the BLM also signed a Record of Decision (ROD) (BLM, 2002) to offer the lease for sale, and the Forest Service issued a ROD in 2002 (US Forest Service, 2002b) consenting to the leasing action proposed by the BLM.

Canyon Fuel Company subsequently requested that the sale of the lease be delayed. On June 21, 2012, Canyon Fuel Company requested to reinstate the lease sale. Because the NEPA review was more than 10 years old, in compliance with the U.S. Forest Service Handbook 1909.15, the Manti-La Sal National Forest reviewed the project and completed a supplemental information report (SIR) (US Forest Service, 2013), which identified the changed conditions and confirmed the Forest Service consent to lease decision. The Forest Service issued a consent letter on February 4, 2015. The BLM also completed a Determination of NEPA Adequacy (BLM, 2015a) under BLM Handbook 1700-1, confirming the 2002 NEPA decision. The lease was auctioned in July 2015.

The OSMRE is required to evaluate the PAP before Canyon Fuel Company may conduct underground mining and reclamation operations to develop the Flat Canyon Federal Coal Lease Tract UTU-77114. OSMRE is the agency responsible for making a recommendation to the ASLM to approve, disapprove, or approve with conditions the proposed mining plan modification. The ASLM will decide whether the mining plan modification is approved, disapproved, or approved with conditions. The OSMRE has prepared an Environmental Assessment (EA) based on the previously completed EIS, Supplemental Information Report, and Determination of NEPA Adequacy and reached a Finding of No Significant Impact (FONSI).

In conducting the EA, the OSMRE reviewed the environmental impacts of the Proposed Action (approving a mining plan modification that would authorize mining activities to produce up to 8

million tons per year of coal from Flat Canyon Federal Coal Lease Tract UTU-77114) and the No Action (disapprove the mining plan modification).

Statement of Environmental Significance

Pursuant to 30 CFR Part 746, OSMRE is recommending selection and approval of the Proposed Action. The undersigned person has determined that approval of a federal mining plan modification authorizing the continuation of mining operations to recover the federal coal for approximately 9 to 12 years of Flat Canyon Federal Coal Lease Tract UTU-77114 with no additional surface disturbance would not have a significant impact on the quality of the human environment under section 102(2)(C) of the NEPA, 42 USC 4332(2)(C); therefore, an EIS is not required.

Reasons for a Finding of No Significant Impact

OSMRE must make a recommendation to the Assistant Secretary of Land and Minerals Management (ASLM) on a decision to approve, disapprove, or approve the mining plan modification with conditions. OSMRE's purpose and need for the Proposed Action is to meet the requirements of 30 CFR Part 746 to review the PAP. 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 Mineral Leasing Act of 1920. As such, this EA follows the regulations and guidance for implementing NEPA from the Council on Environmental Quality, the Department of the Interior, and OSMRE.

The Proposed Action would modify the mining plan to authorize mining a probable maximum of approximately 42 million tons of federal coal at a maximum rate of up to 8 million tons per year (a limit established in the air permit Approval Order DAQE-AN0092007-03 issued by the Utah Department of Environmental Quality, Division of Air Quality). No additional surface disturbance is planned. The Proposed Action and adjacent private coal (a probable maximum of 5 million tons) would extend the mining at Skyline for approximately 9 to 12 years, based on an average annual production of 4.5 million tons.

Under the No Action Alternative, the mining decision document would not be prepared by OSMRE and therefore ASLM would not approve the mining plan modification. Although DOGM has already approved the permit revision associated with the Proposed Action, without ASLM approval, DOGM's permit would revert to the previous permit.

The Federal coal reserves in the Flat Canyon Federal Coal Lease Tract UTU-77114 would not be recovered and underground mining would continue until available coal reserves are mined out in 2018. Reclamation would last two years after closure and continue until Canyon Fuel Company's obligations for reclamation under SMCRA and the Federal lease terms were met.

The attached EA considers a reasonable range of alternatives and in conjunction with the previously completed NEPA reviews, discloses the potential environmental effects. These reviews provide sufficient evidence and support for a 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 and all Council of Environmental Quality regulations implementing NEPA (40 CFR 1500-1508), and other program requirements. This independent review included OSMRE's evaluation of all environmental issues analyzed in the EA, including those identified in comments received from the public during scoping. OSMRE takes full responsibility for the accuracy, scope, and the content of this document.

The undersigned has determined that the public involvement requirements of NEPA have been met. OSMRE conducted public outreach and received comments from October 13 through November 19, 2015. The draft EA and FONSI were made public on June 28, 2016 for a 30-day public comment period.

This finding is based on determining the significance as defined by the context and intensity found in 40 CFR 1508.27 of effects from the Proposed Action.

- a) Context.** This means that the significance of an action must be analyzed in several contexts such as society as a whole (human, national), the affected region, the affected interests, and the locality. Significance varies with the setting of the proposed action. For instance, in the case of a site-specific action, significance would usually depend upon the effects in the locale rather than in the world as a whole. Both short- and long-term effects are relevant.

The proposed action would meet demand for coal and continue mine operations through at least 2028 by:

- Securing a federal mining plan modification approval authorizing mining of leased federal coal; and,
- Continuing to mine (3 to 4.5 million tons of coal per year), process, and ship (via rail and truck) coal to customers in need of coal.

Under the No Action Alternative, mining would continue until 2018. The effects of both the Proposed Action and No Action have been analyzed at the local and regional scale.

- b) Intensity.** This refers to the severity of impact. Responsible officials must bear in mind that more than one agency may make decisions about partial aspects of a major action. The following should be considered in evaluating intensity.

The 10 Significance Criteria in the federal regulations at 40 CFR 1508.27 have been considered in evaluating the severity of impacts.

1. Impacts that may be both beneficial and adverse.

Beneficial and adverse impacts from the Proposed Action are described in the attached EA. There are no ground disturbing activities associated with the Proposed Action therefore there would be minor, negligible or no impact to cultural resources, vegetation, or soils (EA Table 4). Particulate matter, hazardous air pollutants, and greenhouse gas emissions would remain at current levels for the duration of the additional life of the mine and within the permitted limits; therefore, direct impacts would be negligible and adverse (EA Section 4.3.1). The contribution to greenhouse gas emissions

compared to Utah totals would be negligible. It is unknown where the coal would be consumed, the greenhouse gas emissions from the maximum 4.5 million tons of coal mined at Skyline Mine indirect impacts are considered negligible and adverse (EA Section 4.3.1). The direct and indirect impacts on topography, geology, water resources (surface water, groundwater, surface water and groundwater quality, and mine dewatering and discharges), and greater sage-grouse are considered minor, negligible or no impact.

Stipulations included in the lease 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 (EA Section 2.2.13). Additionally, the air permit (DAQE-AN0092007-03) includes measures to reduce impacts on air quality (EA Section 2.3.13), and the Utah Pollution Discharge Eliminating System permit includes requirements to reduce the impacts on surface and groundwater (EA Section 2.2.13).

The Proposed Action would result in minor beneficial economic impacts. There would be an extension of employment for approximately 320 employees in Carbon County for up to 12 years (EA Section 4.4). The No Action would have major adverse social and economic impacts with the loss of employment and revenue.

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

2. The degree to which the Proposed Action affects public health or safety.

Effects from the Proposed Action that could affect health and safety are traffic, air quality, water quality, and noise. Impacts on Transportation and Access were analyzed in the 2002 EIS (see Table 3 in the EA). Air and water impacts of the Proposed Action are discussed in the EA in sections 4.3.1 and 4.6.1, respectively. Impacts on air quality are negligible (see 1 above). The direct and indirect impacts on water would be minor to no impact and short term. Underground mining would not produce noise effects (Table 4 in the EA).

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

There are no park lands, prime farmlands, wild and scenic rivers, wetlands, or ecologically critical areas within the Project Area (Table 1 in the EA). There are no wilderness areas within or near the Project Area. Inventories of historic or cultural resources have been completed, which identified two potentially eligible historic sites in the Project Area. The 2002 Record of Decision determined there were little potential impacts from subsidence. The Utah State Historical Preservation Office concurred with the determination that there would be no adverse effects.

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 and indirect effects on and from climate change and determined the effects to be negligible. The analysis complied with CEQ’s guidance on when and how to consider the effects of greenhouse gas (GHG) emissions and climate change in the NEPA process, in both the guidance’s draft (published Dec 2014) and final (published Dec 2016) iterations. Executive Order 13783, signed 28 March 2017, rescinded the final CEQ guidance. Therefore OSMRE edited the discussion of climate change in the final EA to remove references to the CEQ guidance; however these edits made no substantive difference to the methodology used to examine the direct or indirect effects of the emissions under each alternative or to our conclusions on the resulting potential for climate change impacts.

Approvals of federal mining plans and mining plan modifications have been made for the Skyline Mine since 1981. 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 (EA Section 2.2.13).

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

There are no direct, indirect, or cumulative effects on the human environment under the Proposed Action 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 context of past, present, and reasonably foreseeable actions, including the Skyline Mine operation and other mining operations, the transport of coal from the mine, the combustion of that coal, and ranching, recreation and other mines in the cumulative effects analysis area. The indirect greenhouse gas emissions from coal combustion mined annually from the Skyline Mine were disclosed in the EA (Section 4.3.1). There were no significant cumulative effects identified (EA Section 5.2.2.1).

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. The 2002 Record of Decision determined there was little potential impact from subsidence. The Utah State Historical Preservation Office concurred with the determination that there would be no adverse effects.

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.

There would be no impacts on listed species because habitat does not exist in the Project Area (EA Section 3.1). Downstream effects on listed fish would not occur because there would be minor to negligible, short-term impacts on water quality or volume (Section 4.5.1).

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 Proposed Action 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 as well as cooperating agencies, BLM, USFS, and Utah DOGM. Tribal consultation with the Hopi, Southern Ute, and Santa Clara Pueblo is ongoing. The Proposed Action is consistent with applicable plans, policies, and programs.



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