DECISION NOTICE

and

FINDING OF NO SIGNIFICANT IMPACT

Federal Coal Lease Modification 1, COC-70615, Tract 2

Paonia Ranger District, Grand Mesa, Uncompahgre and Gunnison National Forests
Gunnison County, Colorado
Sections 32 and 33 T12S, R 90W, 6th PM
I. INTRODUCTION

An Environmental Assessment (EA), Federal Coal Lease Modification 1, COC-70615, Tract 2, has been cooperatively prepared by: Grand Mesa, Uncompahgre and Gunnison National Forests (GMUG), Uncompahgre Field Office of the Bureau of Land Management (BLM), Office of Surface Mining, Reclamation and Enforcement (OSM), Colorado Division of Reclamation, Mining and Safety (DRMS) and Colorado Parks and Wildlife (CPW). The EA analyzes the impacts of issuing Federal Coal Lease Modification 1, COC-70615, Tract 2 in response to an application received by the BLM Colorado State Office. Oxbow Mining, LLC (Oxbow) submitted a federal non-competitive coal lease application to the Bureau of Land Management (BLM) in January, 2013. The application was made to prevent bypass of federal coal reserves and is being processed according to procedures set forth in 43 CFR 3432.

The modification contains surface lands managed by the U.S. Forest Service (USFS or Forest Service) Grand Mesa, Uncompahgre, and Gunnison National Forests (GMUG). The lease modification contains approximately 350 acres and is immediately adjacent to existing coal leases (see Appendix A). The application area together with surrounding leases would add approximately 3.35 million tons of recoverable coal or approximately 1.2 years to the life of the Elk Creek mine. All of the coal mineral estate is administered by the BLM. The modification contains portions of Sections 32 and 33 T12S, R 90W, 6th PM in Gunnison County, Colorado.

The BLM is required, by law, to consider leasing Federally-owned minerals for economic recovery. With respect to lands managed by the Forest Service, the agency considers consenting to the BLM leasing coal reserves underlying lands under its jurisdiction, and prescribes stipulations for the protection of non-mineral resources.

Within the lease modification area, the coal would be accessed and recovered by underground longwall mining methods. The coal would be transported using Oxbow’s existing coal transportation system and surface facilities. At the leasing stage, the federal agencies evaluate the effects of subsidence (i.e. the land surface lowered as a result of mining) on surface resources, and identify where surface resources may require specific protection from subsidence or foreseeable surface uses. Under a foreseeable mine plan scenario (EA, Section 3.2), surfaces uses on this modification may include methane drainage wells (MDWs) and approximately ½ mile of associated access roads required to safely mine the coal resources. Specific locations of the MDWs and roads are not known at the leasing stage, and will not be known until the time specific mine plans are approved by the State, BLM, MSHA and OSM during the subsequent permitting process. However, the surface uses were reasonably projected for cumulative effects analysis purposes in the NEPA at the leasing stage.

II. SCOPE OF DECISION AND AUTHORITY

Scope of Decision

With respect to the lease modification, the GMUG, as a surface managing agency, is responsible for deciding whether or not to consent to the BLM issuing the lease modification to COC-70615 covering approximately 350 acres of NFS surface according to the Federal Coal Leasing Amendments Act of 1976; and if so, prescribing stipulations needed for the protection of non-mineral resources to comply with regulations, policy and Forest Plan direction (Appendix B herein and EA, Section 2.1).

Authorities

The primary authorities for issuing coal LBAs are found in the EA, Section 1.5 and summarized below.
The Forest Service and BLM manage their minerals programs under guidance given in the Mining and Minerals Policy Act of 1970 which states in part that it is the “continuing policy of the federal government in the national interest to foster and encourage private enterprise in…(t)he development of economically sound and stable domestic mining minerals and mineral reclamation industries…(and) the orderly and economic development of domestic mineral resources….” Further, federal mineral leasing follows the Mineral Leasing Act of 1920 as amended by the Federal Coal Leasing Amendments Act of 1976 (MLA), and specific procedures set forth in 43 CFR 3400.


This lease modification is being processed according to procedures set forth in 43 CFR 3432. Lease modifications are non-competitive leasing actions. In this case, Oxbow applied for this lease modification, which lies adjacent to their existing leases and no other company could obtain rights to the coal if approved.

Subsequent permitting actions to allow mining in the lease modification would be evaluated by the (DRMS) under procedures set forth in 30 CFR PART 906.30 Appendix B and the Regulations of the Colorado Mined Land Reclamation Board for Coal Mining. This action may also require approval from the USDI through the Office of Surface Mining, Reclamation and Enforcement (OSM).

III. DECISION

I have decided to select the Proposed Action as described in the EA (EA, Section 2.1) and summarized in Section V of this document. Selection of this alternative provides the BLM-Colorado State Office my consent to lease the NFS lands included in the lease tract as shown in Appendix A of this document, and described in the EA (EA, Figure 1). My consent decision includes the application of terms and conditions, identified as stipulations, to protect surface resources on NFS lands included as Appendices B of this document (EA, Table 3).

Once the objection process (described later in this document) is complete, this decision will be implemented through issuance (signature) of this Decision Notice (DN) and formal transmission of my concurrence to BLM in a letter. This will be followed by BLM’s actions of: 1) making a subsequent and independent decision on whether to lease and 2) issuing lease modification. The lessee would then be responsible to secure any Local, State or Federal permits and approvals as applicable and required by law for future operations or development on the lease.

In the event of any contradiction or conflict between descriptions or depictions of authorized actions, my decision is to be taken from the project documents in the following order of precedence: first the description in this DN, second the representations on the Appendix A- Decision Map together with BLM’s official tract lotting map (EA, Appendix C) and Stipulations in Appendices B (also found in EA, Table 3), and finally descriptions in the EA.

IV. REASONS FOR THE DECISION

Applicable Laws, Regulations, and Policy

This decision is consistent with applicable laws, regulations, and policies (refer to Section VIII of this document and EA (Section 1.5) and are consistent with Forest Land and Resource Management Plan (LRMP) direction (EA, Section 1.6 and as further described for each resource area analyzed in Chapter 3).
How Issues Were Considered

Issues were identified primarily by the interagency interdisciplinary team (IDT) and through public involvement. Significant issues were identified in EA in Section 1.8 Issues analysis in EA in both the development of the Proposed Action and in the individual resource sections (EA, Chapter 3). Other issues brought forward were reviewed and addressed in Alternatives Considered but Eliminated from Detailed Analysis (EA, Section 2.2).

Cumulative Effects

Consenting to lease does not result in any direct effects on the ground; however, potential future development of the lease modification may result in indirect and cumulative effects. Indirect and cumulative effects were addressed in in the EA in respective individual resource analyses in Chapter 3. Cumulative effects analyses were based on a Reasonably Foreseeable Mine Plan (EA, Section 3.2) based on Oxbow’s lease application, currently permitted activities on the adjacent leases, coal reserve available in the LBA area, anticipated mining sequence, and subsidence potential. Lease stipulations (EA, Section 2.1 and Appendix B herein) are being prescribed for: cultural and paleontological resources; endangered or threatened species; raptors, migratory birds; big game, geology; riparian, wetland or floodplains; subsidence; visuals, invasive plant species; visuals; and Roadless.

Factors Other Than Environmental Effects Considered In Making the Decision

The BLM and the USFS have identified a need to respond to an application in accordance with the MLA of 1920, as amended by the FCLAA of 1976, and the FLPMA of 1976, and implementing regulations at 43 CFR 3400. The BLM, charged with administration of the mineral estate on these Federal lands, is required, by law, to consider leasing Federally-owned minerals for economic recovery. The BLM with input from cooperating agencies will ultimately decide whether or not to offer the COC-70615 Modification 1, Tract 2 for non-competitive leasing (with appropriate stipulations) under the MLA, as amended and federal regulations under 43 CFR 3400.

The need is also linked to the GMUG Land and Resource Management Plan (LRMP) Plan which emphasizes environmentally sound mineral and energy development (LRMP, page II-61). My decision supports the Purpose and Need for this project and is consistent with Forest Plan direction.

My decision fulfills the Federal Government’s policy to foster and encourage mineral development (Mining and Mineral Policy Act of 1970), the Federal Land Policy and Management Act (FLPMA), and complies with GMUG Forest Plan direction.

I considered the Forest Service Strategic Plan which calls for the Forests to “help meet energy resource needs,” the Forest Service Implementation of the National Energy Plan (2001) generally directing the agency to expedite federal actions necessary for energy-related project approvals including those related to geothermal energy, and Executive Order 13212 directing federal agencies to take steps to increase the energy supply to our nation.

Identification of the Environmental Documents Considered in Making the Decision

This decision was made after carefully considering the contents of the EA including the Coal Unsuitability Criteria (EA, Appendix A), public and IDT comments (summarized in EA, Section 1.8 Issues and representative copies of form letters and original comments in EA, Appendix D), and the supporting project information including the Combined Geologic and Engineering Report and Maximum Economic Recovery
The GMUG Forest Plan was reviewed and this decision determined to be consistent with it (see EA, Section 1.6 and individual resource sections in Chapter 3). Other environmental documents (EA, Section 1.9) prepared for activities in the immediate vicinity were also consulted.

**How Considerations Were Weighed and Balanced In Arriving At the Decision**

The resource effects analyses presented in the EA (Chapter 3, summarized in EA, Table 4) describes potential impacts to surface resources from leasing as minor. Lease stipulations (EA, Table 3 and Appendix B herein) were developed for cultural and paleontological resources; endangered or threatened species; raptors, migratory birds; big game, geology; riparian, wetland or floodplains; subsidence; visuals, invasive plant species; visuals; and Roadless. Because of the surface protections in place, I chose to consent to Federal Coal Lease Modification 1, COC-70615, Tract 2 as applied by Oxbow and as it underwent tract delineation by BLM.

My decision to consent to leasing included evaluating the role and responsibility of the Forest Service in meeting overall energy needs for the nation. This consideration, along with our legal responsibilities led me to the consent to lease decision.

**Relationship to Public Involvement**

Public and agency comments were sought during preparation of the EA. Using the comments received from the public, other agencies, and those developed internally, the IDT developed issues to address. The agencies addressed comments received during scoping and the comment period on the lease modification. The manner in which I have considered specific public comments in my decision is described in Section IV.

**V. SUMMARY OF ALTERNATIVES CONSIDERED**

Five alternatives were considered in the EA (Sections 2.1 and 2.2) with two carried forward for detailed analysis. The selected action is the Proposed Action, conditioned with stipulations. A summary of the Alternatives Considered in Detail in the EA follows:

**No Action Alternative**

Analysis of the No Action alternative is required by CEQ 40 CFR Part 1502.14(d). Under the no action alternative, consent to modify the lease would not be granted, leasing of the lease modification would not occur, and no mining would occur in this specific area. Impacts from mining coal under these areas would not occur on these lands; and the effects from on-going land uses could continue including coal mining activities such as exploration and monitoring related to mine activities on existing leases, continued recreation and grazing. The land would continue to be managed according to Forest Plan standards, goals and guidelines.

**Proposed Action**

The FS proposed action is to consent to the BLM to lease National Forest lands in Tract 2 for subsequent underground longwall coal mining, and apply terms and conditions necessary for the protection of non-mineral surface resources (stipulations). The subsequent BLM proposed action is to lease lands in the tract by non-competitive bid for subsequent underground longwall coal mining, and apply terms and conditions necessary for the protection of non-mineral surface resources (stipulations).

The GMUG will conduct environmental analysis for the proposed federal coal lease modification. The analysis will include considering the most likely mining scenario and reasonably foreseeable mining and surface use alternatives. These projections allow the agency to identify terms and conditions for the protection of non-
mineral resources consistent with the Forest Plan and the MLA, and provide a basis for a reasonable estimate of the tract’s recoverable coal reserves.

The proposed action responds to the overall guidance given in the GMUG Land and Resource Management Plan, as amended (1991), which encourages environmentally sound energy and mineral development, and the BLM Uncompahgre Basin RMP; 1989. To that end, the GMUG has identified the need to consider consenting to modify federal coal lease COC-70615 by adding Tract 2, and applying terms and conditions necessary for the protection of non-mineral surface resources.

As part of the proposed action alternatives the GMUG Forest Supervisor must decide if the existing stipulations on the parent lease are sufficient for the protection of non-mineral (i.e. surface) resources. If not, additional stipulations that would provide for the protection of non-mineral resources must be prescribed. EA, Table 3 lists stipulations on the parent lease and their applicability to the lease modification, as well as the proposed additional stipulations for the lease modification area, the basis for which, is found in the analysis (EA, Chapter 3).

VI. PUBLIC INVOLVEMENT

The Notice of Opportunity to Comment for the EA was published in the Grand Junction Daily Sentinel (newspaper of record) and in the Delta County Independent on April 3, 2013. The Notice of Opportunity to Comment asked for public comment on the proposed lease modification from April 4-May 7, 2013. In addition, as part of the public involvement process, the agencies (FS and BLM) sent out approximately 565 postcards to state, federal, local agencies, tribes, environmental groups, and interested individuals; posted scoping materials to the GMUG’s FS website; and posted to the FS’s Schedule of Proposed Actions.

During the comment period we received approximately 2620 member-submitted form letters on behalf of WildEarth Guardians. Most of these were received multiple (2 or more) times. Thirty-nine of these had some original or somewhat original material (this additional material is included in the EA, Appendix D). Several hundred additional form letters submitted on behalf of WildEarth Guardians were submitted after the comment period closed. Most of these were also received multiple (2 to 18) times. We received 3 other emailed comments and 1 from the U.S. Army Corps of Engineers. We received 1 hardcopy letter (sender also sent form emails on behalf of WildEarth Guardians) and 16 versions of hardcopy form letters (206 total comments) from local community members. We received no comments either electronically or hardcopy directly from environmental groups who have previously been actively involved in the coal leasing in the area.

This project combined the scoping/comment period under the Forest Service’s FS new objection process. Our scoping letter identified the specific written comments as described in 36 CFR 218.2 which specifies the comments should be “within the scope of the proposed action, have a direct relationship to the proposed action, and include supporting reasons for responsible official to consider.”

VII. FINDING OF NO SIGNIFICANT IMPACT

Based on my review of the EA, public comments on the EA, issues identified, resource analysis contained in the EA, the supporting project record, and upon my analysis immediately below, I find that actions resulting from my decision do not constitute major Federal actions significantly affecting the quality of the human environment, as defined in the Code of Federal Regulations Title 40 Part 1508, Section 27 (40 CFR 1508.27) in terms of either context or intensity; and therefore, an environmental impact statement need not be prepared.
Context

Locality
This decision would allow approximately 350 acres of NFS lands on the Paonia Ranger District to be leased for coal mining. However, it is estimated under the Reasonably Foreseeable Mine Plan analyzed (EA, Section 3.2) that if the land were subsequently leased and surface development incidental to underground mining were proposed, <1% of the total acreage of the lease modification is likely to have temporary surface disturbance potentially affecting post mining land uses. Subsidence (lowering of the land surface) would also occur with mining, but lease stipulations (Appendix B) would protect surface resources. Subsidence would generally be unnoticeable to a casual observer.

Lands in the lease modification are managed for multiple uses including aspen management and plant and animal diversity riparian/aquatic ecosystems (EA, Section 1.6). Lands immediately adjacent to the lease modification have had underground coal mining for several years. Given the extent of other mining activities occurring in the vicinity of the lease modification, leasing and potential subsequent development would not appreciably add to existing surface uses. Potential post-leasing activity would be similar to existing activities and it would be managed through lease stipulations to reduce overall effects. Therefore, the effects on public land and users over both the short-term and long-term would remain consistent with that which is presently occurring. No short or long term significant impacts are expected as a result of this decision in the local context.

Affected Interests and Affected Region
Affected interests for this project are range permittees with authorizations in the project area; people using the area for dispersed recreation, wildlife watching and hunting; permitted Outfitter Guide; public and Forest road users; residents in Delta and Gunnison County; and adjacent private landowners. Concerns raised focus mainly on local issues in the immediate vicinity of the lease application area. The decision to consent to leasing allows continued use by livestock permit holders and recreational users of the area. Monitoring and mitigation measures in the form of lease stipulations have been identified and prescribed to protect and preserve other forest uses in the immediate area. Other required permits would specify terms of use to further reduce effects on other forest uses. Gunnison and Delta Counties will receive economic benefit (jobs, local expenditures, royalties to Delta County, etc.) from the lease modification consistent with existing conditions. No short- or long-term significant impacts on affected interests are expected as a result of this decision in the regional context.

Society as a Whole
This decision provides the opportunity for federal coal resources to be made available for commercial production that, in turn, would be used to meet U.S. demand for compliant and super-compliant coal to aid in meeting air quality standards in electrical generation and further maintaining affordable energy supplies to the American people. While this decision could result in small scale, short-term use of the land surface, requirements for careful project design and ultimate reclamation would keep these effects to low levels. Therefore, no negative impacts to society as a whole are expected. In fact, some positive benefit may be derived from the development of these coal sources (as opposed to lower quality coals) regarding air quality and socio-economic concerns (EA, Sections 3.3 and 3.13).

Intensity

Consideration of Beneficial and Adverse Impacts
Beneficial and adverse impacts were described in the EA (resource analysis sections) and considered in Section IV and VII of this Decision Notice. A benefit of this decision will be the continued employment of a high
percentage of the local communities and the resultant more wide-spread economic factors that extend throughout four counties in Colorado. Although both beneficial and adverse effects are disclosed, they are of small scale and focused geographically and in duration. None are severe enough to be considered significant. None of the expected beneficial or adverse impacts have a significant amount of intensity that would require documentation in an EIS.

**Consideration of Public Health and Safety**

I considered public health and safety issues in this decision. Leasing in and of itself does not impart any risk to public health and safety. Potential post-leasing surface use would have to comply with lease terms, DRMS permit, and Mine Health and Safety Administration requirements. Further, any post-leasing development such as roads on NFS lands would be required to be designed and constructed in accordance with Forest Service policy and direction and would not be open to public travel. Due to limited access into this area if it is leased, public hazards would be consistent with other areas of the forest managed for multiple-use management including dispersed recreation and the continued use of existing public roads.

**Consideration of Unique Characteristics such as Proximity to Historic or Cultural Resources, Park Lands, Prime Farmlands, Wetlands, Wild and Scenic Rivers, or Ecologically Critical Areas**

Historic and cultural resources are addressed in the subsequent paragraphs. There are no prime farmlands, rangeland, or forest land as defined in the Secretary of Agriculture's Memorandum Number 1827, Supplement 1, identified on the Grand Mesa or Gunnison National Forests. Within the lease modification no wetlands have been identified; however, riparian areas have been. Lease stipulations provide occupancy restrictions in these areas. There are no identified parklands. The area of my decision has not been identified by any source as an ecologically critical area nor does it contain Wild and Scenic Rivers.

**Consideration of the Degree to Which the Effects on the Quality of the Human Environment Are Likely to be Highly Controversial**

This decision and its effects are not unique. Mineral-related (oil/ gas and coal) leasing decisions have been made on the GMUG for the past 30+ years. The quality and use of the human environment in the project area is understood, has been analyzed in the EA, and is not highly controversial from a scientific standpoint. Although the Forest Service is consenting to lease, subsequent actions must be taken by BLM to issue the lease, and subsequent post-lease operations brought forward in a mine plan must be approved by the State in order for any effects to be realized. This sequence and future surface activities which are projected to occur at a low level, would pose a very low risk of effects spreading to local communities. Information or data demonstrating that the effects described in the EA are highly controversial have not been brought forward. Given the small scale, localized impacts associated with this project, the intensity of this factor does not require documentation in an EIS.

**Consideration of the Degree to Which the Possible Effects on the Human Environment are Highly Uncertain or Involve Unique or Unknown Risks**

This decision is not unique for the GMUG from the standpoint of understanding potential effects. The GMUG has decades of experience analyzing and managing similar projects that involve mineral leasing and subsequent post-lease activity. The GMUG has experience implementing and monitoring similar projects, the effects of which have been found to be reasonably predictable. Based on review of this analysis and compared to our local conditions, the risks associated with leasing and post-lease activities and associated operations are understood, and can be evaluated and reasonably predicted. No effects from this decision would be classified as highly uncertain or involving unique or unknown risks. The intensity of this factor does not require documentation in an EIS.
Consideration of 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

Consenting to leasing the lease modification as will not create a precedent for future similar leasing actions. The GMUG Forest Plan acknowledges and allows for coal leasing and resource development in areas where such activities would be consistent with the Plan. Further, my decision follows the legal direction for coal resource management. Because mineral leasing is a discretionary decision on the part of the surface managing agency, any future lease proposals would have to be evaluated on their own merits based on the issues and effects related to the location, timing and intensity of each action. My decision does not set a precedent or represent a decision in principle about a future consideration; therefore, documentation in an EIS is not required.

Consideration of the Action in Relation to Other Actions with Individually Insignificant but Cumulatively Significant Impacts

The lands in proximity to the lease modification are managed for multiple uses or are developed for public access and private use. Since leasing itself does not impart specific direct or indirect effects, effects related to post-lease activity are projected to be of limited scale, minimal individual effects and minimal cumulative effects are expected when added to the existing situation and other potential activities. Because the lease, if issued by BLM, will likely be obtained by an existing mine, which will make effects such as air emissions a continuation of an existing activity at the existing rates, the proposed action will not result in significant effects.

Consideration of the Degree to Which the Action May Adversely Affect Areas 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.

The project record and field reviews support that cultural or historic sites would not be affected by this decision. Stipulations and requirements for site-specific surveys and monitoring at the time operations may be proposed will serve to further protect cultural resources. SHPO consultation was necessary. When implementing the decision, any previously unidentified sites inadvertently discovered would be avoided or mitigated so effects would be minimized or negated (EA Section 3.11).

Consideration of the Degree to Which the Action May Adversely Affect an Endangered or Threatened Species or Its Habitat Has Been Determined Not to be Critical Under The Endangered Species Act.

A Biological Assessment (BA) was prepared for this decision (Project File). All known endangered or threatened species in the area were considered. Due to “no effect determinations” I consultation with the USFWS was not required. Lease stipulations have been added for the protection of threatened and endangered species which minimize or negate impacts to these species. If additional findings regarding threatened or endangered, proposed or sensitive species are discovered, a new biological assessment or evaluation will be written, and formal consultation reinitiated.

Consideration of Whether the Action Threatens a Violation of Law or Requirement Imposed for the Protection of the Environment.

To the best of my knowledge, this decision does not threaten violation of any laws and regulations imposed for the protection of the environment (see Section VIII).

VIII. FINDINGS REQUIRED BY OTHER LAWS AND REGULATIONS

To the best of my knowledge, this decision complies with all applicable laws and regulations. In the following, I have summarized the association of my decision to some pertinent legal requirements.
Colorado Roadless Rule

As analyzed in the Environmental Assessment, post-leasing surface disturbance (temporary road construction and MDW pads) would have temporary adverse impacts to some roadless area characteristics. These activities are consistent with the Colorado Roadless Rule, which allows for limited coal development within the North Fork coal mining area. The effects of these activities were analyzed in the Colorado Roadless Rule Environmental Impact Statement. I expect impacts to roadless characteristics to diminish, or cease after mining in the area has been completed.

Executive Order 13212 of May 18, 2001

This Order called the federal agencies to expedite their review of permits for energy-related projects while maintaining safety, public health, and environmental protections. My decision is consistent with this Order.

Federal Land Policy and Management Act of 1976

The Federal Land Policy and Management Act of 1976 states that public lands are to be managed in a manner that recognizes the need for the domestic sources of minerals, including renewable and non-renewable resources. My decision is consistent with this act.

National Forest Management Act of 1976

The Forest Plan was approved in 1983 and amended in 1991, as required by this Act. This long-range land and resource management plan provides guidance for all resource management activities in the Forest. The National Forest Management Act requires all projects and activities to be consistent with the Forest Plan. The Forest Plan has been reviewed in consideration of this lease modification (EA Section 1.6 and individual resource sections in Chapter 3). My decision is consistent with the Forest Plan.

Mining and Minerals Policy Act of 1970

This Act declared it would be the continuing policy of the Federal government and in the national interest to foster and encourage private enterprise in the development of economically sound and stable domestic mining industries, and the orderly and economic development of domestic mineral resources. My decision is consistent with this act.


Federal coal leasing follows the Mineral Leasing Act of 1920 (MLA), as amended, and specific procedures set forth in 43 CFR 3400. The purpose of the Energy Policy Act of 2005 was to ensure jobs for the future with secure, affordable, and reliable energy. This lease modification is being processed according to procedures set forth in 43 CFR 3432. Therefore, my decision is consistent with these acts.

Surface Mining Control and Reclamation Act of 1977

The Surface Mining Control and Reclamation Act of 1977, as amended, (SMCRA) gives OSM primary responsibility to administer programs that regulate surface coal mining operations and the surface effects of underground coal mining operations in the United States. Pursuant to Section 503 of SMCRA, DRMS developed, and the Secretary of the Interior approved, Colorado’s permanent regulatory program authorizing DRMS to regulate surface coal mining operations and the surface effects of underground coal mining on private
and State lands within the State of Colorado. In September 1982, under Section 523(c) of SMCRA, DRMS entered into a cooperative agreement with the Secretary of the Interior authorizing DRMS to regulate surface coal mining operations and the surface effects of underground coal mining on Federal lands within the State. My decision is consistent with this act and cooperative agreements.

**Clean Air Act of 1955, as amended 1977**

This Clean Air Act (CAA) required States to develop plans to implement, maintain, and enforce primary and secondary ambient air quality standards for any criteria air pollutants, and called federal agencies to prevent deterioration of air quality. Effects on air quality as a result of this project were analyzed and showed that this project will have negligible effects on air quality. There will be no exceedances of air quality standards for this proposed activity. Further, lessee is required to hold and maintain state air quality permits for their activities under the CAA. This decision is consistent with this Act.

**Clean Water Amendments of 1972**

This Act requires State and Federal agencies to control and abate water pollution. This project was designed to comply with this Act through the inclusion of stipulations for surface water, water depletions, baseline data and monitoring and further compliance with all state and local laws (Appendix B and EA). This decision is consistent with this Act.

**Colorado Surface Coal Mining Reclamation Act (CRS. 34-33-101)**

This Act and attendant regulations are consistent with the overarching federal regulations (30 CFR Part 906, Appendix B). Federal coal leaseholders in Colorado must hold a State-approved mining permit before performing mining and reclamation operations on Federal lands in the state. In accordance with Colorado’s approved federal coal program procedures, during the mine permitting process the GMUG will review an applicant’s submittal to ensure that it provides for post-mining land use consistent with the Forest Plan and has adequate protections for NFS lands. DRMS has been a cooperating agency on the preparation of this lease modification is therefore prepared to respond as needed to any future permitting should a lease be issued.

**Executive Order 11990 and 11988**

The management of wetlands and floodplains are subject to Executive Orders 11990 and 11988, respectively. The purpose of the EOs are to avoid to the extent possible the long- and short-term adverse impacts associated with the destruction or modification of wetlands and floodplains and to avoid direct or indirect support of new construction in wetlands wherever there is a practical alternative. This order requires the Forest Service to take action to minimize destruction, loss or degradation of wetlands, and to preserve and enhance the natural and beneficial values of wetlands. In compliance with this order, Forest Service direction requires that an analysis be completed to determine whether adverse impacts would result (Appendix B and EA). The lease modification was designed to avoid impacts to wetlands and floodplains through the addition of lease stipulations. My decision is consistent with these orders.

**Executive Order 12898**

Concern for environmental justice stems from Executive Order 12898, “Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations,” signed February 11, 1994 by President Clinton. In this order (Section 1-101), “each Federal agency shall make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse
human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations in the United States.” The population around the project area was reviewed and no minority or low-income populations were identified, and no additional outreach was conducted. For this project, no disproportionately high adverse impacts are expected. This decision is consistent with this Order.

**National Historic Preservation Act**

The project area lies entirely within a 12,500 acre planning area that was surveyed in large blocks in 2005 for future coal leasing purposes. Detailed cultural context information can be found in that report (Conner, et al 2005) and also in the archaeological inventory report of the nearby Spruce Stomp project (Conner and Davenport 2012). Many other small projects have been inventoried in the Somerset area for coal and gas developments. The inventory resulted in identification of no sites within the study area. Because this tract lies within a project already analyzed and cleared in 2005 for coal activities, and has no known sites, low site sensitivity and very little potential for surface impacts, based on the low chance of surface subsidence effects, the project is recommended to take place as planned with no further work. No historic properties are likely to be affected by leasing and underground mining of this parcel. SHPO consultation concurrence was received on September 26, 2013 (GMUG # R2013-020408-133; SHPO Project # 47148) for FS, BLM and OSM for this project. The addition of the standard lease clause and lease stipulations will protect currently undiscovered sites. My decision is consistent with this and other acts protecting heritage resources.

**Endangered Species Act**

No threatened or endangered species habitat is located within the project area; therefore there are no effects to listed species and consultation with USWFS is not required. The addition of the standard lease clause and lease stipulations will protect threatened and endangered species should the area contain habitat in the future. My decision is consistent with ESA and other acts protecting wildlife, raptors and migratory birds.

**National Environmental Policy Act**

The documentation for this project supports compliance with this Act. The process of environmental analysis and decision making for this proposed action, and the associated documentation, have been conducted to fully comply with the requirements of NEPA. These include requirements of the Act itself, CEQ regulations at 40 CFR 1500, Forest Service policies at Forest Service Handbook 1909.15 and 36 CFR 220, requirements that evolved through the practice of NEPA, and from case law.

**Coal Unsuitability**

Upon receipt of the applications to modify the lease, BLM completed tract delineation (Appendix C of the EA). I have reviewed the unsuitability criteria published in 43 CFR 3461 (EA Appendix A) and am recommending to the Secretary of Interior (or their delegated representative) that there are no significant recreational, timber, economic, or other values that are incompatible with issuing the LBA. My recommendation is consistent with 43 CFR 3461.

**Other Permits Required**

DRMS mine permit

In addition to the mine permit process, other permitting processes not covered by DRMS authority may need to be analyzed and permitted. Examples of these types of permits include: 1) Road Use Permits; 2) Timber contract for harvest of merchantable timber; and 3) Special Use/Right-of-Way Authorizations for other surface disturbing activities not covered by or outside the area covered in the mine permit (e.g. pipelines and off-lease
facilities for methane mitigation). Oxbow may be required to obtain/update additional information specific to this leasing action including:

- Updating Forest Service Road Use Permit for roads outside the mine permit area
- Forest Service timber contract for any merchantable timber removed
- Update approved Pesticide Use and Weed Control Plan

IX. IMPLEMENTATION DATE AND OBJECTION OPPORTUNITY

Implementation Date

This decision may be signed and implemented if no objections are filed within the 45-day time period, on, but not before, 5 business days from the close of the objection filing period. If objections are filed, this decision cannot be signed until the Reviewing Officer issues a written response to the objector(s) concerning their objection(s) (within 45 days following the end of the objection filing period with the discretion to extend the time for up to 30 days when he or she determines that additional time is necessary to provide adequate response to objections or to participate in resolution discussions with the objector(s)). Signing of this decision represents completion of the administrative review process as described in 36 CFR 218. In relation to the Forest Service role in this project as the federal surface land management agency, once this decision is signed and I issue my concurrence letter to BLM, this decision will be effective.

Administrative Review or Appeal Opportunities

This consent to lease activity is subject to the objection process pursuant to 36 CFR 218 Subparts A & B.

Objections (including attachments) must be in writing and filed (regular mail, fax, e-mail, hand-delivery, express delivery, or messenger service) with the Reviewing Officer (36 CFR § 215.8) within 45 days following the date of publication of a legal notice of Notice of Opportunity to Object in the Grand Junction Daily Sentinel. Attachments received after the 45-day objection period will not be considered. The publication date of the legal notice in the newspaper of record is the exclusive means for calculating the time to file an objection (36 CFR 218.7). Those wishing to object should not rely upon dates or timeframe information provided by any other source.

Objections must be filed (regular mail, fax, email, hand-delivery, or express delivery) with the Reviewing Officer at:

Reviewing Officer
U.S.D.A. Forest Service
Rocky Mountain Region
740 Simms Street
Golden, CO 80401

Fax: 303-275-5134 to the attention of Appeals
Email: appeals-rocky-mountain-regional-office@fs.fed.us

The office business hours for those submitting hand-delivered objections are 8:00 AM to 4:30 PM Monday through Friday, excluding federal holidays. Electronic appeals must be submitted in a format such as an e-mail message, plain text (.txt), rich text format (.rtf), or MSWord (.doc). In cases where no identifiable name is
attached to an electronic message, a verification of identity will be required. A scanned signature is one way to
provide verification.

Individuals or organizations who have previously submitted timely, specific written comments regarding the
proposed project during the official (scoping) comment period may object to this decision. Objections must
contain the minimum content requirements as described in 36 CFR 218.8(d) and will be limited to issues raised
in previously submitted timely, specific written comments regarding the proposed project unless based on new
information arising after designated opportunities becomes available.

06857.htm

Contact
For more information about this project, contact either Niccole Mortenson at 406-329-3163 or
nmortenson@fs.fed.us or Levi Broyles at 970-527-4131 or lbroyles@fs.fed.us.

XI. SIGNATURE AND DATE

_________________________________   _____________
SCOTT G. ARMENTROUT      DATE
Forest Supervisor
Grand Mesa-Uncompahgre-Gunnison National Forests

The U.S. Department of Agriculture (USDA) prohibits discrimination on all its programs and activities on the basis of race, color, national origin, gender, religion, age,
disability, political beliefs, sexual orientation, and marital or family status. (Not all prohibited bases apply to all programs.) Persons with disabilities who require
alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA’s TARGET Center at (202) 720-2600 (voice
and TDD).

To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, Room 326-W, Whitten Building, 14th and Independence Avenue, SW, Washington, DC 20250-9410 or call (202) 720-5964 (voice and TDD). USDA is an equal opportunity provider and employer.
Appendix A. Decision Map
(Intentionally left blank)
### Appendix B- Lease Stipulations

<table>
<thead>
<tr>
<th>Resource Area</th>
<th>Stipulations Carried Forward from Parent Lease COC-70615:</th>
<th>Additional Stipulations Specific to Lease Modification are Required:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cultural and Paleontological</td>
<td>Roads and drill pads associated with GVB drilling would avoid areas where cultural resources have been identified.</td>
<td>(Required Standard Notice for Lands under the Jurisdiction of the Department of Agriculture.)</td>
</tr>
<tr>
<td>Resources</td>
<td>If any cultural resources are located during construction of the pads or roads, construction would stop and the BLM would be notified.</td>
<td>The FS is responsible for assuring that the leased lands are examined to determine if cultural resources are present and to specify mitigation measures. Prior to undertaking any surface-disturbing activities on the lands covered by this lease, the lessee or operator, unless notified to the contrary by the FS, shall:</td>
</tr>
<tr>
<td></td>
<td>If any paleontological resources are located during construction of the pads or roads, construction would stop and the BLM would be notified immediately.</td>
<td>Contact the FS to determine if a site specific cultural resource inventory is required. If a survey is required then:</td>
</tr>
<tr>
<td></td>
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<td>Engage the services of a cultural resource specialist acceptable to the FS to conduct a cultural resource inventory of the area of proposed surface disturbance. The operator may elect to inventory an area larger than the area of proposed disturbance to cover possible site relocation which may result from environmental or other considerations. An acceptable inventory report is to be submitted to the FS for review and approval at the time a surface disturbing plan of operation is submitted.</td>
</tr>
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<td>Implement mitigation measures required by the FS and BLM to preserve or avoid destruction of cultural resource values. Mitigation may include relocation of proposed facilities, testing, salvage, and recordation or other protective measures. All costs of the inventory and mitigation will be borne by the lessee or operator, and all data</td>
</tr>
<tr>
<td>Resource Area</td>
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<tr>
<td>Endangered or Threatened Species</td>
<td>Site specific surveys for sensitive plants would be conducted on site prior to development of any surface facilities or other soil disturbance activities.</td>
<td>and materials salvaged will remain under the jurisdiction of the U.S. Government as appropriate.</td>
</tr>
<tr>
<td></td>
<td>There would be no surface occupancy or soil disturbing activities within 100 ft. radius of sensitive plant locations.</td>
<td>The lessee or operator shall immediately bring to the attention of the FS and BLM any cultural or paleontological resources or any other objects of scientific interest discovered as a result of surface operations under this license, and shall leave such discoveries intact until directed to proceed by FS and BLM.</td>
</tr>
<tr>
<td></td>
<td>Care would be taken in the application of herbicides, surfactants, and other weed control measures to avoid overspray or drift onto desirable species or sensitive plants.</td>
<td>(Required Standard Notice for Lands under the Jurisdiction of the Department of Agriculture.)</td>
</tr>
<tr>
<td></td>
<td>(Required Standard Notice for Lands under the Jurisdiction of the Department of Agriculture.)</td>
<td>The FS is responsible for assuring that the leased land is examined prior to undertaking any surface-disturbing activities to determine effects upon any plant or animal species listed or proposed for listing as endangered or threatened, or their habitats. The findings of this examination may result in some restrictions to the operator's plans or even disallow use and occupancy that would be in violation of the Endangered Species Act of 1973 by detrimentally affecting endangered or threatened species or their habitats.</td>
</tr>
<tr>
<td></td>
<td>The lessee/operator may, unless notified by the FS that the examination is not necessary, conduct the examination on the leased lands at his discretion and cost. This examination must be done by or under the supervision of a qualified resource specialist approved by the FS. An acceptable report must be provided to the FS identifying the anticipated effects of a proposed action on endangered or threatened species or</td>
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<tr>
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<td></td>
<td>their habitats.</td>
<td>If there is reason to believe that Sensitive, Threatened or Endangered species of plants or animals, or migratory bird species of high Federal interest are present, or become present in the lease area, the Lessee/Operator shall be required to conduct an intensive field inventory of the area to be disturbed and/or impacted. The inventory shall be conducted by a qualified specialist, and a report of findings prepared. A plan will be made that recommends protection for these species or action necessary to mitigate the disturbance. The cost of conducting such inventory, preparing reports and carrying out mitigation measures shall be borne by the Lessee/Operator.</td>
</tr>
</tbody>
</table>
| Migratory Birds / Raptors | For Migratory Birds and Nesting Raptors  
- Conduct surveys for migratory birds and nesting raptors within ½ mile of drill pads and access roads prior to development before project implementation.  
- If active migratory bird nests are identified during project implementation, take appropriate measures to reduce effects to these species including relocating overland access routes and drill hole locations and implementing disturbance-free buffer zones and timing limitations for active raptor nests.  
- If other (non-migratory) raptor nests are identified, no surface activities would be allowed within ½ mile radius of active nest sites between the dates of February 1 and August 15, Lessee will conduct raptor surveys prior to implementation of the project; provide a report of those survey results to the Forest Service project lead and the Colorado Parks and Wildlife, if requested.  
If raptors are located during the surveys or during construction, protection to nesting sites will be accorded as per the GMUG LRMP or the Colorado Parks and Wildlife recommended buffers and mitigations, if FS rules are not applicable. These restrictions may be waived upon approval of the land management agency and the Colorado Parks and Wildlife, where all appropriate regulatory parties agree to the changes. |
<table>
<thead>
<tr>
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<tr>
<td>Big game winter range</td>
<td>Unless authorized by BLM on a site specific basis.</td>
<td>New surface disturbance, including drilling and construction activities, shall not occur from December 1 through April 15 on mapped winter range on</td>
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<td>For Bald or Golden Eagle Nests That May be Established on the Project Area</td>
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<td>• No new permanent surface facilities or disturbances would be located within a 1/4 mile radius buffer zone around each bald or golden eagle nest site.</td>
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<tr>
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<td>• No above ground activities would be allowed within a 1/2 mile radius buffer zone around each active eagle nest site from November 15 to July 30 for bald eagles, and around each active golden eagle nest site from February 1 to July 15.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Any proposed surface facilities, disturbances or activities (noted above) in, or adjacent to, these buffer zones would require approval from the BLM on a site-specific basis, after consultation with the USFWS.</td>
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<tr>
<td></td>
<td>For Bald Eagle Winter Roost Sites or Concentration Areas that May be Established on the Project Area</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• No above ground activities would be allowed within a 1/4 mile radius of winter roosts between November 15 and March 15; development may be permitted at other periods.</td>
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<td>• If periodic visits are required within the buffer zone after development, activity should be restricted to the hours of 10 a.m. and 2 p.m. from November 15 through March 15.</td>
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<td>N/A,</td>
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DN/FONSI
Federal Coal Lease Modification 1, COC-70615, Tract 2
20
<table>
<thead>
<tr>
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<td></td>
<td></td>
<td>NFS lands, to reduce impacts to wintering big game. Monitoring and access to the sites by over-the-snow vehicles shall be permitted, but no snow plowing may occur. Fence reserve pits to prevent wildlife from entering the pits. No netting over the pits is required unless the pits are known or suspected to contain any toxic substance.</td>
</tr>
<tr>
<td>Geologic hazards</td>
<td>n/a</td>
<td>No surface occupancy would be allowed in areas of high geologic hazard or high erosion potential. Special interdisciplinary team analysis and mitigation plans detailing construction and mitigation techniques would be required on areas where slopes range from 40-60 percent. The interdisciplinary team could include engineers, soil scientist, hydrologist, landscape architect, reclamation specialist and mining engineer.</td>
</tr>
<tr>
<td>Baseline Information</td>
<td>n/a</td>
<td>The operator/lessee would be required to perform adequate baseline studies to quantify existing surface and subsurface resources. Existing data can be used for baseline analyses provided that the data is adequate to locate, quantify, and demonstrate interrelationships between geology, topography, hydrogeology, and hydrology. Baseline studies are critical to the success of future observation and assessment of mining related effects on resources in the lease tract.</td>
</tr>
<tr>
<td>Monitoring Program</td>
<td>n/a</td>
<td>The operator/lessee of the lease tract would be required to establish or amend a monitoring program to be used as a continuing record of change over time of area resources in order to assess</td>
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| Riparian, wetland or floodplain | • Ground disturbance will be located away from drainages and wetlands to the extent possible.  
• Dust control measures such as wetting and surfactants will be applied to exposed surfaces and soil stockpiles.  
• Proper sediment controls will be used during drill pad and road preparation. These include sediment barriers such as silt fences or straw bale sediment barriers, equipment matting, prompt revegetation, etc.  
• Drainage crossings along existing roads will be hardened with culverts or other control features.  
• The drill pads and any associated disturbance would be located at least 0.2 miles from any delineated wetlands or riparian areas.  
• No new access off the existing road will occur in wetland or riparian areas.  
• Roads will be limited to a single crossing of Elk Creek. | mining induced impacts. The monitoring program shall provide the procedures and methodologies to adequately assess interrelationships between geology, topography, hydrogeology, and hydrology identified in the baseline assessment to mining activities in the lease tract area. The monitoring program shall incorporate baseline data so as to provide a continuing record over time. Apply all necessary Best Management Practices as per the Forest Service Watershed Conservation Practices Handbook (FSH 2509.25) Surface use or disturbances (except for surface subsidence and resource monitoring purposes defined in the approved mining permit) will not be permitted in riparian, wetland or floodplain areas, or within a buffer zone surrounding these areas (the definition of riparian areas and appropriate buffer zone will be consistent with that defined in the Forest Service Manual and Water Conservation Practices Handbook. Wetland definition will follow Army Corps of Engineers guidelines) unless no practical alternatives exist. |
<p>| Subsidence          | n/a                                                      | If subsidence adversely affects surface resources in any way (including, but not limited to a documented water loss), the |</p>
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<td>Roadless</td>
<td>n/a</td>
<td>Lessee, at their expense will be responsible to: restore stream channels, stock ponds, protect stream flow with earthwork or temporary culverts, restore affected roads, or provide other measures to repair damage or replace any surface water and/or developed ground water source, stock pond, water conveyance facilities, with water from an alternate source in sufficient quantity and quality to maintain existing riparian habitat, livestock and wildlife use, or other land uses as authorized by 36 CFR 251.</td>
</tr>
</tbody>
</table>

On the following lands within the Pilot Knob CRA, surface operations incident to underground coal mining are subject to regulations in 36 CFR 294, subpart D:

All roads that may be constructed must be temporary.

All temporary road construction must be consistent with applicable land management plan direction

Road construction may only occur if motorized access has been deemed infeasible by the responsible official; unless a temporary road is needed to protect public health and safety in cases of an imminent threat of flood, fire or other catastrophic event that, without intervention, would cause the loss of life or property

Temporary road construction must be completed in a manner that reduces effects on surface resources, and prevents unnecessary or unreasonable surface disturbance

All temporary roads must be decommissioned and affected
Resource Area | Stipulations Carried Forward from Parent Lease COC-70615: | Additional Stipulations Specific to Lease Modification are Required:
--- | --- | ---
<p>| | landscapes restored when it is determined that the road is no longer needed for the established purpose. | For any linear construction zone (LCZ) over 50 inches wide used to install pipelines, the Regional Forester must determine that they are needed, and the responsible official must determine that motorized access without a linear construction zone is not feasible. |
| | All temporary roads must prohibit public motorized vehicles (including off-highway vehicles) except: Where specifically used for the purpose for which the road was established; or Motor vehicle use that is specifically authorized under a Federal law or regulation. | Construction and use of linear construction zones must be consistent with the GMUG Forest Land and Resource Management Plan, and may be no wider than their respective intended uses. Installation of linear construction zones will be done in a manner that minimizes ground disturbance. Reclamation of a linear construction zone will not diminish, over the long-term, roadless area characteristics. All authorizations approving the installation of linear facilities through the use of a linear construction zone shall include a responsible official approved reclamation plan for reclaiming the affected landscape while conserving roadless area characteristics over the long-term. Upon completion of the installation of a linear facility via the use of a linear construction zone, all |</p>
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<td>areas of surface disturbance shall be reclaimed as prescribed in the authorization and the approved reclamation plan and may not be waived.</td>
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<tr>
<td>Visua ls</td>
<td>n/a</td>
<td>Within the lease modification area, the lessee will work with the District Ranger and his/her representative to see that all mine operations are situated on the ground in such a manner that reasonably minimizes impacts to the scenic integrity of that landscape as prescribed in the Forest Plan.</td>
</tr>
<tr>
<td>Methane use</td>
<td>n/a</td>
<td>If flaring or other combustion is prescribed as part of any future mitigation measure, lessee will be required to submit a fire prevention and protection plan subject to responsible Forest Service official for approval.</td>
</tr>
<tr>
<td>Invasive / Non-native Species</td>
<td>Complete an inventory for noxious weeds within the project area before construction begins to determine if there is a need for pre-treatments. Share results of the inventory with the BLM-UFO weed specialist.  • As a safeguard to avoid the introduction of noxious weeds, drill rigs and vehicles would be required to have all dirt and debris that could contain weed seeds removed and vehicles would also be washed prior to entering the project area in an area where washout material can be contained. Inspection of vehicles is required, or proof of cleaning vehicles could be remitted.  • If the drill rig or other vehicles are taken over areas infested with noxious weeds, each vehicle would be cleaned with high-pressure water spray equipment before moving to another</td>
<td>Seed all disturbed areas which are not road or pad surfaces, including all cut and fill slopes and topsoil piles, with the approved Paonia district mountain shrub or aspen/spruce seed mix, as appropriate, under the direction of the district Range or Wildlife staff. After the pads and roads are no longer needed for ventilation of the mine, reclaim all pad and road and other disturbed sites by recontouring to natural slopes, roughen the surface, reseed with the above seed mixes, and add slash, such as oak brush, where needed. Monitor seeding success and if necessary, reseed areas in subsequent years. Monitor and control noxious weeds on all disturbed areas and on adjacent areas if weeds appear to spread, under the direction of the district Range staff.</td>
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<tr>
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- area to reduce the likelihood of spreading noxious weed seeds.
- Appropriate herbicides and non-ionic surfactants would be applied to disturbed areas, topsoil stockpiles and reclaimed areas to prevent invasion by noxious weeds. Care would be taken to avoid drift onto desirable species.
- Other mechanical or biological means of weed control such as discing, shoveling or insects may also be employed on disturbed areas where appropriate and prior consultation with the BLM has occurred.
- OMLLC (Oxbow) would maintain records of location, type, date of all weed control and a Pesticide Use Proposal number would be obtained from the BLM prior to any herbicide application. A Pesticide Application Record turned into the BLM within 15 days post application.
- If outbreaks of noxious weeds are identified in the project area, control measures would be implemented in consultation with the BLM.
- All new and upgraded roads within the project and associated pads would be monitored for noxious weeds by a qualified contractor or trained Oxbow employee. Applicant will be responsible for treating all noxious weeds in areas of project disturbance. Applicant will not be responsible for existing roads that have not been modified for the project. A monitoring report will be required by the BLM once yearly in early summer.
- All herbicide application will be done in accordance with the
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<tbody>
<tr>
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<td>label, at the appropriate time of year,</td>
<td>• All roads created for mining of the lease on NFS lands shall be gated or otherwise physically closed to public use unless otherwise authorized.</td>
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<td>with the appropriate chemical for the targeted noxious weed species, and applied by a certified applicator.</td>
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<td></td>
<td>Seed soil stockpiles with an approved seed mix</td>
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<tr>
<td>Other</td>
<td>n/a</td>
<td></td>
</tr>
</tbody>
</table>

**NOTICE FOR LANDS OF THE NATIONAL FOREST SYSTEM UNDER JURISDICTION OF DEPARTMENT OF AGRICULTURE**

The permittee/lessee must comply with all the rules and regulations of the Secretary of Agriculture set forth at Title 36, Chapter II, of the Code of Federal Regulations governing the use and management of the National Forest System (NFS) when not inconsistent with the rights granted by the Secretary of Interior in the permit. The Secretary of Agriculture's rules and regulations must be complied with for (1) all use and occupancy of the NFS prior to approval of a permit/operation plan by the Secretary of the Interior, (2) uses of all existing improvements, such as forest development roads, within and outside the area permitted by the Secretary of the Interior, and (3) use and occupancy of the NFS not authorized by a permit/operation plan approved by the Secretary of the Interior.

All matters related to this stipulation are to be addressed to: Forest Supervisor, Grand Mesa-Uncompahgre-Gunnison NF, 2250 Hwy 50, Delta, Colorado 81416, 970-874-6600 who is the authorized representative of the Secretary of Agriculture.

**NOTICE CULTURAL AND PALEONTOLOGICAL RESOURCES -** The FS is responsible for assuring that the leased lands are examined to determine if cultural resources are present and to specify mitigation measures. Prior to undertaking any surface-disturbing activities on the lands covered by this lease, the lessee or operator, unless notified to the contrary by the FS, shall:

1. Contact the BLM/FS to determine if a site specific cultural resource inventory is required. If a survey is required, then:
2. Engage the services of a cultural resource specialist acceptable to the BLM/FS to conduct a cultural resource inventory of the area of proposed surface disturbance. The operator may elect to inventory an area larger than the area of proposed disturbance to cover possible site relocation which may result from environmental or other
considerations. An acceptable inventory report is to be submitted to the BLM/FS for review and approval at the
time a surface disturbing plan of operation is submitted.
3. Implement mitigation measures required by the FS and BLM to preserve or avoid destruction of cultural
resource values. Mitigation may include relocation of proposed facilities, testing, salvage, and recordation or
other protective measures. All costs of the inventory and mitigation will be borne by the lessee or operator, and
all data and materials salvaged will remain under the jurisdiction of the U.S. Government as appropriate.

The lessee or operator shall immediately bring to the attention of the FS and BLM any cultural or
paleontological resources or any other objects of scientific interest discovered as a result of surface operations
under this lease, and shall leave such discoveries intact until directed to proceed by FS and BLM.

ENDANGERED OR THREATENED SPECIES - The FS is responsible for assuring that the leased land is
examined prior to undertaking any surface-disturbing activities to determine effects upon any plant or animal
species listed or proposed for listing as endangered or threatened, or their habitats. The findings of this
examination may result in some restrictions to the operator's plans or even disallow use and occupancy that
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threatened species or their habitats.

The lessee/operator may, unless notified by the FS that the examination is not necessary, conduct the
examination on the leased lands at his discretion and cost. This examination must be done by or under the
supervision of a qualified resource specialist approved by the FS. An acceptable report must be provided to the
FS identifying the anticipated effects of a proposed action on endangered or threatened species or their habitats.