

DECISION NOTICE and FINDING OF NO SIGNIFICANT IMPACT

Federal Coal Lease COC-61209 Modification 4

**Paonia Ranger District
Grand Mesa, Uncompahgre and Gunnison National Forests
Delta County, Colorado**

I. INTRODUCTION

An Environmental Assessment (EA) has been prepared that analyzes the surface impacts of modifying federal coal lease COC-61209. An application was filed with the Uncompahgre Field Office USDI BLM by Bowie Resources Limited (BRL) to modify existing federal coal lease COC-61209 by adding 560 acres. The lease modification application contains National Forest System (NFS) surface lands managed by the Grand Mesa, Uncompahgre, and Gunnison National Forests (GMUG). The coal estate is administered by the Uncompahgre Field Office of the Bureau of Land Management (BLM). The lease modification application will be processed according to procedures set forth in 43 CFR 3432.

The proposed lease modification is located Sections 27-28 and 33-34, Township 12 South, Range 91 West, in Delta County, Colorado (approximately 8 miles north/northeast of Paonia, Colorado), and is shown in Appendix A of this document.

The coal in this lease modification would be accessed and recovered by underground longwall mining methods. BRL applied for this lease modification to compensate for changes in mine design, which were driven by underground hazards associated with local geology.

The USDA-Forest Service (FS), as the surface management agency, considers consenting to the BLM leasing reserves underlying lands under its jurisdiction, and prescribes conditions (as stipulations) for the protection of non-mineral resources.

My decision has been further informed by review of the Unsuitability Analysis and Report (EA, Appendix A).

II. SCOPE OF DECISION AND AUTHORITY

Scope of Decision

With respect to the National Forest System (NFS) lands, I have decided to approve the Proposed Action Alternative as described in the EA (EA, Section 2.2.1 and 2.1.3), and summarized in Section V of this document. This decision gives the USDI-BLM my consent to modify existing federal coal Lease COC-61209 by adding 560 acres

according to the Federal Coal Leasing Amendments Act of 1976 and to prescribe conditions (stipulations) needed for the protection of non-coal resources on lands managed by the BLM for minerals and the FS for federal surface located in SW¼, S½SE¼, S½NE¼SE¼, S½NW¼SE¼ Section 27; E½SE¼ Section 28; NE¼NE¼ Section 33; and N½N½ Section 34, Township 12 South, Range 91West, 6th PM.

Authorities

The Decision to consent to BLM modifying federal coal lease COC-61209 is made under 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 application will be processed according to procedures set forth in 43 CFR 3432. Lease modifications are considered non-competitive leasing actions, as they are applied for by lease holders to add acreage to an existing lease. In this case, BRL has applied for this modification. No other coal company could obtain the rights to the coal in this lease modification if it is approved.

The subsequent permitting action to allow mining and changing of the approved mine permit boundary to include the modification areas would be evaluated by the Colorado Division of Reclamation Mining Safety (DRMS) under procedures set forth in 30 CFR 700 et. seq. and the Regulations of the Colorado Mined Land Reclamation Board for Coal Mining.

These changes would also require approval from the USDI through the Office of Surface Mining Reclamation and Enforcement (OSM).

The Decision to consent to BLM modifying federal coal lease COC-61209 is also made under 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, e 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. Based on the cooperative agreement, Federal coal lease holders in Colorado must submit a permit application package to OSM and DRMS for proposed mining and reclamation operations on Federal lands in the State.

DRMS enforces the performance standards and permit requirements during the mine's operation and has primary authority in environmental emergencies. OSM retains oversight responsibility for this enforcement. BLM and the surface management agency

(in the case the Forest Service) have authority in emergency situations in which DRMS or OSM inspectors cannot act before environmental harm or damage occurs.

III. DECISION

The location of the NFS land for which consent is given to modify coal lease COC-61209 is shown in Appendix A of this document.

My consent decision is conditioned that application of the Coal Lease Stipulations as identified in COC-61209 parent lease (Iron Point Lease) be applied to the lease modification area (Appendix B and EA, Sections 2.1.3a-c). Two additional site-specific Coal Lease Stipulations from the EA (Section 2.1.3c and Chapter 3) and from restrictions developed from the Unsuitability Analysis and Report (EA, Appendix A) are listed below:

- Colorado River Fish- In the future, if water used for mine related activities exceeds a depletion amount previously consulted upon by the GMUG, the permitting agency must enter into consultation with the U.S. Fish and Wildlife Service to determine appropriate conservation measures to offset effects to listed fish and critical habitat in the upper Colorado River Basin.
- Golden Eagles- There is a known golden eagle nest near Terror Reservoir. This site will need to be monitored for activity.

Where potential additional stipulations were identified, they were compared to the parent lease language. The parent lease was more restrictive and, therefore, not updated to include these lesser restrictions.

This decision will be implemented through issuance of this Decision Notice (DN), BLM issuance of a decision to modify the lease and the Forest Service providing concurrence to a mining and reclamation plan approved through the DRMS and OSM process (EA, Sections 1.4 and 1.5). The lessee will be required to secure any additional Local, State or Federal permits as applicable and required by law.

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, and finally descriptions in the EA.

The BLM, Colorado State Director will make a separate and final decision for leasing the BLM public lands and the coal reserves in the modification area. It must also be noted that this consent decision by the USDA-FS to the USDI-BLM to lease these lands, is not the final decision.

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 1.4) and are consistent with Forest Land and Resource Management Plan (LRMP) direction (EA, Section 1.6 and Chapter 3).

How Issues Were Considered

The general issue of concern is the potential for subsidence to impact surface resources. This overarching concern was described in the Issues (EA, Section 1.8.1) that were analyzed in the EA. Potential impacts will be mitigated or reduced to a very low level by the application of the Coal Lease Stipulations from the parent lease (EA, Sections 2.1.3 and Chapter 3 and Appendix B of this document).

Benefits will also occur from implementation of my decision. Additional tons of coal will be made available to supply energy needs of the country, and will provide some minor economic benefit to the surrounding communities.

Factors Other Than Environmental Effects Considered In Making the Decision

The purpose and need of this project is to consider issuing a coal lease modification for federal coal lands immediately adjacent to existing federal coal lease COC-61209. The purpose of the lease modification is to accommodate a change in mine design, and to ensure that compliant and super-complaint coal reserves are recovered. My decision supports the Purpose and Need for this project.

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

The No Action Alternative (EA, Section 2.4.2) was not selected because it would not meet the Forest Plan direction to "encourage environmentally sound energy and minerals development" (Forest Plan, page II-61) nor would it allow development under 43 CFR 3432 (as amended by the Energy Policy Act of 2005) which allows coal lessees to apply noncompetitively for additional acreage

Identification of the Environmental Documents Considered in Making the Decision

This decision was made after carefully considering the contents of the EA, public comments, agency response to comments, and the supporting project file. The GMUG Forest Plan was reviewed and this decision determined to be consistent with it. The numerous other environmental documents (EA, Section 1.2) prepared for activities in the area were also consulted.

How Considerations Were Weighed and Balanced In Arriving At the Decision

The resource impact analyses presented in the EA (Chapter 3, and summarized in Table 2-1) show that potential impacts to surface resources are very low. Granting consent to lease these lands adds about 560 acres of NFS lands to the coal lease base in the North Fork Valley to replace lands that have become unmineable due to geologic hazards. There are currently over 10, 000 acres of NFS lands under lease for coal in the area. This additional acreage represents about 5% of the currently leased acreage.

I have also considered Executive Order 13212, which directs federal agencies to take steps to increase the energy supply to our nation.

Coal in the North Fork Valley is desirable because it is considered “compliance coal” (both compliant and super-compliant) under the Clean Air Act emissions standards. The coal from the area is low sulfur, low ash, and has high burning capabilities.

Relationship to Public Involvement

Public and agency comments were sought throughout this project (refer to Section VI of this document and EA, Section 1.7 and Chapter 4). The Forest Service addressed comments received during scoping on the project, which are included as part of the body of the EA (EA, Sections 1.8, 1.8.1, 1.8.2, 2.2 and Chapter 3).

I recognize that some members of the public generally do not support energy activities on NFS lands. As a mineral-related activity, coal mining is a recognized use of National Forest System lands and approving and administering these activities is part of the Forest Service mission and the legal framework under which the agency operates.

I also recognize the concern that potential surface use and road building may occur on the lease modification. This is a decision to consent to the lease modification. If the lease modification were issued, it would grant the lessee the right to develop the minerals on the tract, and would acknowledge rights for surface use. At this leasing stage, there are no specific surface uses proposed (EA, Sections 2.1.2 and 3.1), although a reasonably foreseeable mine plan has been considered (EA, Chapter 3). If surface use is proposed in the future, such a proposal would be evaluated on its own merits and decisions issued that may or may not approve the proposed activities. Any proposal for surface use would need to be framed in the context of the lease stipulations identified in this Decision (Appendix B of this document, and EA, Section 2.1.3).

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 Coal Lease Stipulations. A summary of the action alternatives considered in the EA follows:

No Action

Under the no action alternative, the lease modification would not be approved, and no mining would occur in this specific area. Impacts from mining coal under this area would not occur on these lands, and the effects from on-going land uses would continue including coal mining activities such as exploration and monitoring related to other lease activities. The land would continue to be managed according to Forest Plan standards, goals and guidelines.

The Proposed Action

The proposed action is to modify BRL’s existing federal coal lease COC-61209 by adding 560 additional acres to it to compensate for changes in mine design, which were driven by underground hazards associated with local geology, and to ensure that federal coal reserves are not bypassed.

The proposed lease modification consists of approximately 560 acres located on lands managed by the BLM for minerals and the FS for federal surface in SW¼, S½SE¼, S½NE¼SE¼, S½NW¼SE¼ Section 27; E½SE¼ Section 28; NE¼NE¼ Section 33; and N½N½ Section 34, Township 12 South, Range 91West, 6th PM.

The proposed action deals primarily with underground mining. It is assumed that longwall mining practices would be used. Only minor surface disturbing activities would occur on Forest Service lands as a result of subsidence.

VI. PUBLIC INVOLVEMENT

Project scoping comments were solicited from appropriate agencies, specific interested parties, and the general public. The Notice of Opportunity to Comment was published in the Grand Junction Daily Sentinel on April 4, 2004. The notice asked for public comment on the proposal for 30 days following publication. In addition, as part of the public involvement process, Forest Service and BLM met with Colorado Division of Wildlife, US Environmental Protection Agency, Office of Surface Mining and Reclamation and Colorado Division of Reclamation Mining and safety and sent scoping letters to approximately 85 groups, individuals and agencies. Four comment letters were received.

Using the comments from the public, other agencies, and the interdisciplinary team, all the issues brought up are addressed in the following sections: Key Issues, Non-key Issues, or Alternatives Considered but Eliminated from Detailed Study (EA, Sections 1.8.1, 1.8.2, and 2.2, and Chapter 3).

VII. FINDING OF NO SIGNIFICANT IMPACT

Based on my review of the EA, public comments on the EA, the agency responses to comments (EA, Sections 1.8, 1.8.1, 1.8.2, 2.2 and Chapter 3), 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 that an environmental impact statement need not be prepared.

Context

Locality- This decision would directly affect about 560 acres of NFS lands on the Paonia Ranger District. This number represents the acreage in the lease modification and in relation to the reasonably foreseeable mine plan (EA, Section 3.1), about 400 acres would be subsided. In context of the surrounding area, over 10,000 acres of land are currently under lease for the Bowie No. 2 Mine. The acreage involved in this lease tract represents a small percentage of all the lands (federal and private) currently committed to coal resource recovery.

Potential impacts due to subsidence of the land surface are monitored or mitigated by application of the Coal Lease Stipulations in Appendix B of this document. The effects on public land and users over both the short-term and long-term would remain consistent with that which is presently occurring and has occurred in the past decade. No short or long term significant impacts are expected as a result of this decision in the local context (EA, Chapter 3).

Affected Interests and Affected Region- Affected interests for this project are permittees in the project area, people who use the project areas for recreation, people using public and Forest roads, residents in Delta and Gunnison Counties, the project proponent and other coal companies. This decision allows continued use of the area by livestock permit holders and recreational users of the areas. Monitoring and mitigation measures

in the form of lease stipulations are prescribed as carried forward from the parent lease and those identified specific to the modification area in this decision to protect and preserve other forest uses. Other required permits would specify terms of use to further reduce effects on other forest uses. No short or long term significant impacts on affected interests are expected as a result of this decision in the regional context (EA, Chapter 3).

Society as a Whole- This decision provides the opportunity for federal coal reserves to be mined and contribute to filling the nation's need for coal. This decision also ensures that mineable federal coal reserves are not bypassed. Given the short duration of mining the coal and small amount of coal reserve that will be added based on replacing acreages of unmineable coal, there would be no impacts to society as a whole.

Intensity

Consideration of Beneficial and Adverse Impacts- Consideration Of Beneficial And Adverse Impacts. Beneficial and adverse impacts were described in the EA (Chapter 3) and considered in Section III of this Decision Notice. Impacts of this decision will be similar to those of previous decisions regarding coal leasing and mining in this project area and in adjacent areas on the GMUG and BLM lands. A benefit of this project will be the contribution of coal to the nation's energy needs. Although both beneficial and adverse effects are disclosed, 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. Since there are no changes to the existing coal transportation system (EA, Section 3.29), that the coal would be mined from an underground mine, the scale of this project, and the short-term duration of project activities, coupled with lease stipulations, reduces the risk to public health and safety to negligible levels

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- 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 following sections. 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. Wetlands would not be affected, as no delineated wetlands are known to exist in the lease modification impact area. There are no identified parklands or Wild and Scenic rivers in proximity to the project. The area of my decision has not been identified by any source as an ecologically critical area.

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 and gas, and coal) leasing decisions have been made on this National Forest for the past 30 years. Surface related impacts incident to subsidence are expected to be consistent with past impacts from similar projects in this project area and elsewhere in the project vicinity. The quality and use of the human environment in the project area is understood, has been analyzed, and is not highly controversial from a scientific standpoint. Given that activities will occur for short periods of time at specific locations, there is very low risk of effects spreading to local

communities. Monitoring of subsidence in the area has shown that small-scale impacts have occurred, but none that contribute substantially to the landscape (EA, Section 3.5). Information or data that would demonstrate 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 this area, as mineral leasing projects have been previously approved in close proximity to the project area. The Forest Service has experience in implementing and monitoring similar projects, the effects of which have been found to be reasonably predictable. The risks associated with subsidence 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 coal activities on this lease modification will not create a precedent for future leasing or lease modifications. The BLM currently administers coal leasing activities in close proximity to the lease modification area. Further, the GMUG has previously analyzed coal exploration and development in the vicinity of the lease modification and in other areas on the forest. My decision follows the legal direction for coal (EA, Sections 1.4 and 1.5) and is an identified and anticipated activity in the GMUG Forest Plan. Any future 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- Coal exploration has occurred in and adjacent to the lease modification area since approximately 2000 (EA, Table 3.0). Underground coal mining has also occurred adjacent to the lease modification. No reasonably foreseeable future projects have been identified that would, in connection with this decision, produce cumulative effects beyond those currently occurring. The limited scale of activity creates minimal individual effects, as well as minimal cumulative effects when added to the existing situation and other potential activities. The proposed action will result in generally unnoticeable subsidence of the surface and will not affect other uses. While this lease modification will also contribute unnoticeably to air quality/climate change over current conditions, there is a growing national concern with regard to these topics, which cannot be fully addressed at the project level.

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 no cultural or historic sites would be affected by this decision (EA, section 3.10, and project file). The SHPO was consulted, and concurred with these findings. When implementing the decision, any previously unidentified sites inadvertently discovered would be avoided or mitigated so there would be no effect upon them (see Appendix B of this document).

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 has been prepared for this decision (EA, Section 3.9 and Project File). All known endangered or threatened species in the area were considered. Due to “no effect” determinations for Canada, Lynx and the Greenback cutthroat trout, the US Fish and Wildlife Service (FWS) is not required to be consulted. This decision is likely to adversely affect the four Colorado River endangered fish species through water depletions as a result of mining. The scope of this project is consistent with the FWS Programmatic Biological Opinion for Water Depletions (May 27, 2007) as related to minerals activity on the GMUG. If additional findings regarding threatened or endangered, proposed or sensitive species are discovered, a new biological assessment or evaluation will be written, and any mitigation incorporated into lease stipulations.

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 (refer to Section VIII of this document).

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.

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: This Act allows the granting of land use permits on National Forest System lands. The regulations at Code of Federal Regulations Title 36 Part 251 (36 CFR 251) guide the issuance of permits under this Act. Land use permits are granted on National Forest System lands when the need for such is consistent with planned uses.

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 project (EA, Sections 1.6 and Chapter 3). This 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 (EA, Section 1.4). This decision is consistent with this Act.

Mineral Leasing Act of 1920, as Amended by the Federal Coal Leasing Amendments Act of 1975: These Acts authorize the federal agencies to lease coal reserves (EA, Section 1.4), and prescribe conditions for protection of non-coal resources. It requires the BLM to secure consent from the surface management agency prior to leasing federal coal lands. This decision is consistent with these Acts.

Clean Air Act of 1955, as amended 1977: This Act 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. 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 (EA, Section 2.1.3a-c and Appendix B of this document). This decision is consistent with this Act.

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 (EA, Section 2.1.2 and 3.10-3.13). The project was designed to avoid impacts to wetlands and floodplains. This decision is consistent with this Order.

National Historic Preservation Act: All areas of potential disturbance have been surveyed for cultural resources. Hence there is no impact to significant cultural or historic properties (Section VII). Ongoing consultation has identified no places of American Indian cultural or religious significance (EA, Sections 3.24-3.25 and Project File).

Endangered Species Act: Compliance with this Act is addressed in Section VII, of this document.

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, the requirements that evolved through the practice of NEPA, and from case law.

Energy Policy Act of 2005: With respect to coal under 43 CFR 3432 (as amended by the Energy Policy Act of 2005), the holder of a federal coal lease may apply

to modify a lease by up to 960 acres. The federal agencies are responding to an application to modify an existing lease. This Decision is consistent with this Act.

IX. IMPLEMENTATION DATE AND ADMINISTRATIVE REVIEW AND APPEAL OPPORTUNITY

Implementation Date

If no appeals are filed within the 45-day time period, implementation of the decision may occur on, but not before, 5 business days from the close of the appeal filing period. When appeals are filed, implementation may occur on, but not before, the 15th business day following the date of the last appeal disposition.

In relation to the Forest Service role in this project as the federal surface land management agency in the State coal program, the agency will be able to provide the required formal concurrence to the DRMS or OSM as applicable, no sooner than 5 days after the appeal filing period closes. If an appeal is filed, formal concurrence would not occur until after the appeal resolution period described above.

Administrative Review or Appeal Opportunities

This decision is subject to administrative review pursuant to Federal Regulations at 36 CFR 215. Appeals (including attachments) must be in writing and filed (regular mail, fax, e-mail, hand-delivery, express delivery, or messenger service) with the Appeal Deciding Officer (§ 215.8) within 45 days following the date of publication of a legal notice of this decision in the Grand Junction Daily Sentinel. Attachments received after the 45-day appeal 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 appeal (§ 215.15 (a)). Those wishing to appeal should not rely upon dates or timeframe information provided by any other source.

The appeal must be filed (regular mail, fax, email, hand-delivery, or express delivery) with the Appeal Deciding Officer at:

Appeals Deciding 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 appeals 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) to appeals-rocky-mountain-regional-office@fs.fed.us. 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.

Appeals, including attachments, must be filed within 45 days from the publication date of this notice in the Grand Junction Daily Sentinel. Attachments received after the 45 day appeal period will not be considered. The publication date in the Grand Junction Daily Sentinel is the exclusive means for calculating the time to file an appeal. Those wishing to appeal this decision should not rely upon dates or timeframe information provided by any other source.

Individuals or organizations who expressed interest during the comment period specified at 36 CFR 215.6 may appeal this decision. The notice of appeal must meet the appeal content requirements at 36 CFR 215.14.

Contact Person

For more information about this project, contact Niccole Mortenson, 2250 Highway 50, Delta, CO 81416, phone 970-874-6616, or at nmortenson@fs.fed.us.

XI. SIGNATURE AND DATE

/ Charles S. Richmond/

07/23/2008

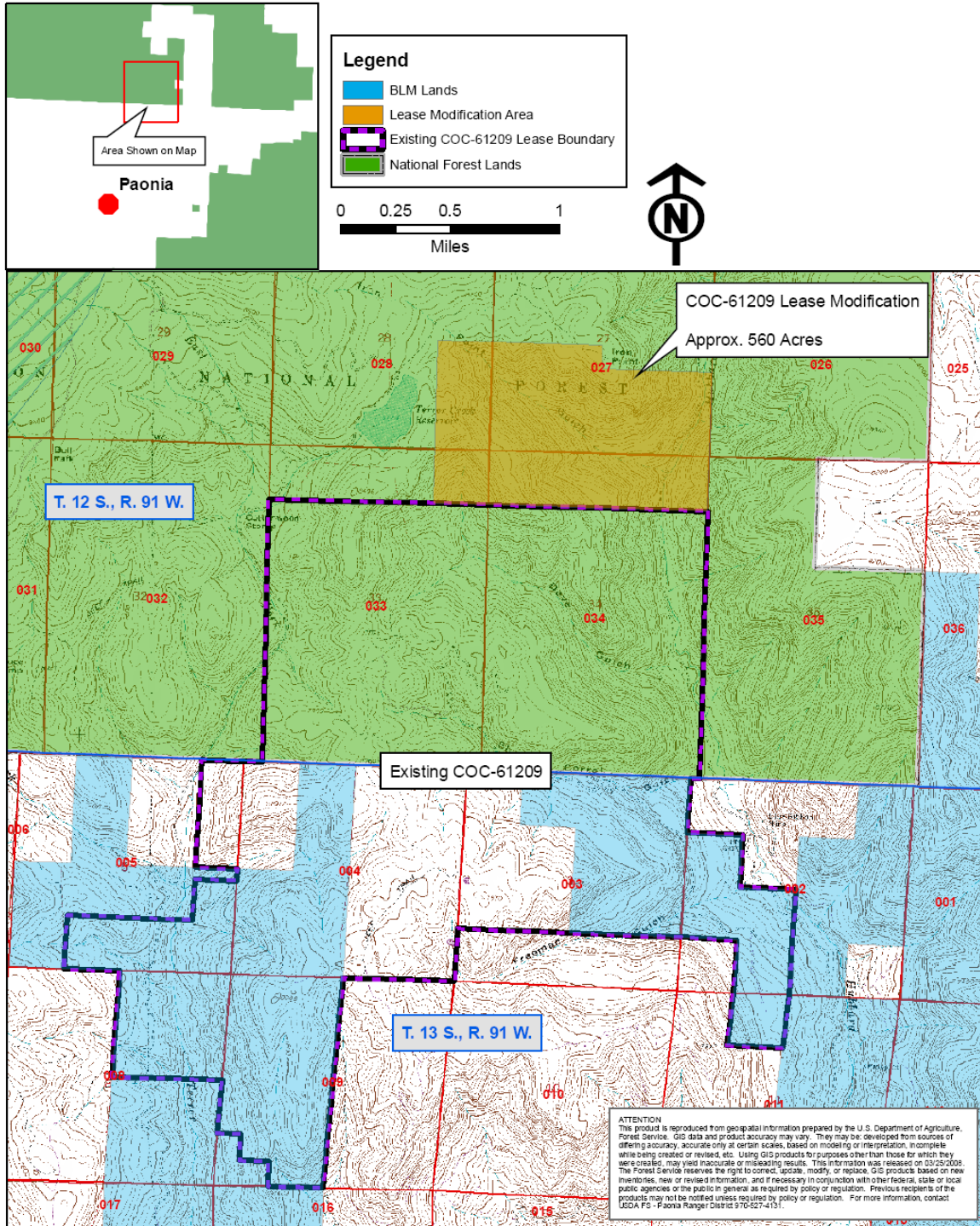
CHARLES S. RICHMOND
Forest Supervisor
Grand Mesa-Uncompahgre-Gunnison National Forests

DATE

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Appendix A- Decision Map



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Appendix B- Parent Lease COC-61209

APR-24-02 WED 12:49 PM

FAX NO. 3032393799

P. 03

Form 3400-12
(January 1995)

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

FORM APPROVED
OMB NO. 1004-0073
Expires: June 30, 1997

Serial Number

COAL LEASE

COC 61209

PART I. LEASE RIGHTS GRANTED

This lease, entered into by and between the UNITED STATES OF AMERICA, hereinafter called lessor, through the Bureau of Land Management, and (Name and Address)

Bowie Resources LTD
P.O. Box 483
Paonia, CO 81428

hereinafter called lessee, is effective (date) Sep 1, 2000 for a period of 20 years and for so long thereafter as coal is produced in commercial quantities from the leased lands, subject to readjustment of lease terms at the end of the 20th lease year and each 10-year period thereafter.

Sec. 1. This lease is issued pursuant and subject to the terms and provisions of the:

- Mineral Lands Leasing Act of 1920, Act of February 25, 1920, as amended, 41 Stat. 437, 30 U.S.C. 181-287, hereinafter referred to as the Act;
 Mineral Leasing Act for Acquired Lands, Act of August 7, 1947, 61 Stat. 913, 30 U.S.C. 351-359;

and to the regulations and formal orders of the Secretary of the Interior which are now or hereafter in force, when not inconsistent with the express and specific provisions herein.

Sec. 2. Lessor, in consideration of any bonuses, rents, and royalties to be paid, and the conditions and covenants to be observed as herein set forth, hereby grants and leases to lessee the exclusive right and privilege to drill for, mine, extract, remove, or otherwise process and dispose of the coal deposits in, upon, or under the following described lands:

T. 12 S., R. 91 W., 6th P.M.
sec. 33, lots 1 to 3, inclusive, 6 to 11, inclusive,
14 to 16, inclusive, SE $\frac{1}{2}$ NW $\frac{1}{4}$, and S $\frac{1}{2}$ NE $\frac{1}{4}$;
sec. 34, lots 1 to 16, inclusive, and S $\frac{1}{2}$ N $\frac{1}{2}$;

T. 13 S., R. 91 W., 6th P.M.
sec. 2, SW $\frac{1}{2}$ NW $\frac{1}{4}$, NW $\frac{1}{2}$ SW $\frac{1}{4}$, and E $\frac{1}{2}$ SW $\frac{1}{4}$;
sec. 3, lots 1 to 4, inclusive, S $\frac{1}{2}$ N $\frac{1}{2}$, and N $\frac{1}{2}$ S $\frac{1}{2}$;
sec. 4, lots 1 to 4, inclusive, S $\frac{1}{2}$ N $\frac{1}{2}$, and S $\frac{1}{2}$;
sec. 5, SE $\frac{1}{4}$ SW $\frac{1}{4}$ and S $\frac{1}{2}$ SE $\frac{1}{4}$;
sec. 8, NE $\frac{1}{4}$;
sec. 9, NW $\frac{1}{4}$ and N $\frac{1}{2}$ SW $\frac{1}{4}$;
sec. 11, NE $\frac{1}{4}$ NW $\frac{1}{4}$

containing 3210.82 acres, more or less, together with the right to construct such works, buildings, plants, structures, equipment and appliances and the right to use such on-lease rights-of-way which may be necessary and convenient in the exercise of the rights and privileges granted, subject to the conditions herein provided.

PART II. TERMS AND CONDITIONS

Sec. 1. (a) RENTAL RATE - Lessee shall pay lessor rental annually and in advance for each acre or fraction thereof during the continuance of the lease at the rate of \$ 3.00 for each lease year.

(b) RENTAL CREDITS - Rental shall not be credited against either production or advance royalties for any year.

Sec. 2. (a) PRODUCTION ROYALTIES - The royalty shall be 8 percent of the value of the coal as set forth in the regulations. Royalties are due to lessor the final day of the month succeeding the calendar month in which the royalty obligation accrues.

(b) ADVANCE ROYALTIES - Upon request by the lessee, the authorized officer may accept, for a total of not more than 10 years, the payment of advance royalties in lieu of continued operation, consistent with the regulations. The advance royalty shall be based on a percent of the value of a minimum number of tons determined in the manner established by the advance royalty regulations in effect at the time the lessee requests approval to pay advance royalties in lieu of continued operation.

Sec. 3. BONDS - Lessee shall maintain in the proper office a lease bond in the amount of \$ 431,000. The authorized officer may require an increase in this amount when additional coverage is determined appropriate.

Sec. 4. DILIGENCE - This lease is subject to the conditions of diligent development and continued operation, except that these conditions are excused when operations under the lease are interrupted by strikes, the elements, or casualties not attributable to the lessee. The Lessor, in the public interest, may suspend the condition of continued operation upon payment of advance royalties in accordance with the regulations in existence at the time of the suspension. Lessee's failure to produce coal in commercial quantities at the end of 10 years shall terminate the lease. Lessee shall submit an operation and reclamation plan pursuant to Section 7 of the Act not later than 3 years after lease issuance.

The lessor reserves the power to consent to or order the suspension of the terms and conditions of this lease in accordance with, inter alia, Section 39 of the Mineral Leasing Act, 30 U.S.C. 209.

Sec. 5. LOGICAL MINING UNIT (LMU) - Either upon approval by the lessor of the lessee's application or at the direction of the lessor, this lease shall become an LMU or part of an LMU, subject to the provisions set forth in the regulations.

The stipulations established in an LMU approval in effect at the time of LMU approval will supersede the relevant inconsistent terms of this lease so long as the lease remains committed to the LMU. If the LMU of which this lease is a part is dissolved, the lease shall then be subject to the lease terms which would have been applied if the lease had not been included in an LMU.

Sec. 6. DOCUMENTS, EVIDENCE AND INSPECTION - At such times and in such form as lessor may prescribe, lessee shall furnish detailed statements showing the amounts and quality of all products removed and sold from the lease, the proceeds therefrom, and the amount used for production purposes or unavoidably lost.

Lessee shall keep open at all reasonable times for the inspection of any duly authorized officer of lessor, the leased premises and all surface and underground improvements, works, machinery, ore stockpiles, equipment, and all books, accounts, maps, and records relative to operations, surveys, or investigations on or under the leased lands.

Lessee shall allow lessor access to and copying of documents reasonably necessary to verify lessee compliance with terms and conditions of the lease.

While this lease remains in effect, information obtained under this section shall be closed to inspection by the public in accordance with the Freedom of Information Act (5 U.S.C. 552).

Sec. 7. DAMAGES TO PROPERTY AND CONDUCT OF OPERATIONS - Lessee shall comply at its own expense with all reasonable orders of the Secretary, respecting diligent operations, prevention of waste, and protection of other resources.

Lessee shall not conduct exploration operations, other than casual use, without an approved exploration plan. All exploration plans prior to the commencement of mining operations within an approved mining permit area shall be submitted to the authorized officer.

Lessee shall carry on all operations in accordance with approved methods and practices as provided in the operating regulations, having due regard for the prevention of injury to life, health, or property, and prevention of waste, damage or degradation to any land, air, water, cultural, biological, visual, and other resources, including mineral deposits and formations of mineral deposits not leased hereunder, and to other land uses or users. Lessee shall take measures deemed necessary by lessor to accomplish the intent of this lease term. Such measures may include, but are not limited to, modification to proposed siting or design of facilities, timing of operations, and specification of interim and final reclamation procedures. Lessor reserves to itself the right to lease, sell, or otherwise dispose of the surface or other mineral deposits in the lands and the right to continue existing uses and to authorize future uses upon or in the leased lands, including issuing leases for mineral deposits not covered hereunder and approving easements or rights-of-way. Lessor shall condition such uses to prevent unnecessary or unreasonable interference with rights of lessee as may be consistent with concepts of multiple use and multiple minerals development.

Sec. 8. PROTECTION OF DIVERSE INTERESTS, AND EQUAL OPPORTUNITY - Lessee shall: pay when due all taxes legally assessed and levied under the laws of the State or the United States; accord all employees complete freedom of purchase; pay all wages at least twice each month in lawful money of the United States; maintain a safe working environment in accordance with standard industry practices; restrict the workday to not more than 8 hours in any one day for underground workers, except in emergencies; and take measures necessary to protect the health and safety of the public. No person under the age of 16 years shall be employed in any mine below the surface. To the extent that laws of the State in which the lands are situated are more restrictive than the provisions in this paragraph, then the State laws apply.

Lessee will comply with all provisions of Executive Order No. 11246 of September 24, 1965, as amended, and the rules, regulations, and relevant orders of the Secretary of Labor. Neither lessee nor lessee's subcontractors shall maintain segregated facilities.

Sec. 15. SPECIAL STIPULATIONS - attached

Sec. 9. (a) TRANSFERS

- This lease may be transferred in whole or in part to any person, association or corporation qualified to hold such lease interest.
- This lease may be transferred in whole or in part to another public body or to a person who will mine the coal on behalf of, and for the use of, the public body or to a person who for the limited purpose of creating a security interest in favor of a lender agrees to be obligated to mine the coal on behalf of the public body.
- This lease may only be transferred in whole or in part to another small business qualified under 13 CFR 121.

Transfers of record title, working or royalty interest must be approved in accordance with the regulations.

(b) **RELINQUISHMENT** - The lessee may relinquish in writing at any time all rights under this lease or any portion thereof as provided in the regulations. Upon lessor's acceptance of the relinquishment, lessee shall be relieved of all future obligations under the lease or the relinquished portion thereof, whichever is applicable.

Sec. 10. DELIVERY OF PREMISES, REMOVAL OF MACHINERY, EQUIPMENT, ETC. - At such time as all portions of this lease are returned to lessor, lessee shall deliver up to lessor the land leased, underground timbering, and such other supports and structures necessary for the preservation of the mine workings on the leased premises or deposits and place all workings in condition for suspension or abandonment. Within 180 days thereof, lessee shall remove from the premises all other structures, machinery, equipment, tools, and materials that it elects to or as required by the authorized officer. Any such structures, machinery, equipment, tools, and materials remaining on the leased lands beyond 180 days, or approved extension thereof, shall become the property of the lessor, but lessee shall either remove any or all such property or shall continue to be liable for the cost of removal and disposal in the amount actually incurred by the lessor. If the surface is owned by third parties, lessor shall waive the requirement for removal, provided the third parties do not object to such waiver. Lessee shall, prior to the termination of bond liability or at any other time when required and in accordance with all applicable laws and regulations, reclaim all lands the surface of which has been disturbed, dispose of all debris or solid waste, repair the offsite and onsite damage caused by lessee's activity or activities incidental thereto, and reclaim access roads or trails.

Sec. 11. PROCEEDINGS IN CASE OF DEFAULT - If lessee fails to comply with applicable laws, existing regulations, or the terms, conditions and stipulations of this lease, and the noncompliance continues for 30 days after written notice thereof, this lease shall be subject to cancellation by the lessor only by judicial proceedings. This provision shall not be construed to prevent the exercise by lessor of any other legal and equitable remedy, including waiver of the default. Any such remedy or waiver shall not prevent later cancellation for the same default occurring at any other time.

Sec. 12. HEIRS AND SUCCESSORS-IN-INTEREST - Each obligation of this lease shall extend to and be binding upon, and every benefit hereof shall inure to, the heirs, executors, administrators, successors, or assigns of the respective parties hereto.

Sec. 13. INDEMNIFICATION - Lessee shall indemnify and hold harmless the United States from any and all claims arising out of the lessee's activities and operations under this lease.

Sec. 14. SPECIAL STATUTES - This lease is subject to the Clean Water Act (33 U.S.C. 1252 et. seq.), the Clean Air Act (42 U.S.C. 4274 et. seq.), and to all other applicable laws pertaining to exploration activities, mining operations and reclamation, including the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 et. seq.).

Sec. 15. SPECIAL STIPULATIONS (Conf'd)

NOTICE

The Privacy Act and the regulation at 43 CFR 2.48(d) provide that you be furnished with the following information in connection with the information required by this lease.

AUTHORITY: 30 U.S.C. 181 et seq., 30 U.S.C. 351-359

PRINCIPAL PURPOSE: The information required by this lease is used to allow the BLM to gather data relevant to the extent and quality of public coal resources and to manage the leasing and development of coal in the public interest.

ROUTINE USES: (1) Report the amount of coal leased, entities to whom leased, and, in aggregate, production from leases for revenue and other purposes. (2) Subject to restrictions and conditions stated in the lease, authorize the site-specific extraction of public coal resources.

EFFECT OF NOT PROVIDING INFORMATION: Report and disclosure of the information is mandatory for all lessees.

The Paperwork Reduction Act of 1980 (44 U.S.C. 3501, et seq.) requires us to inform you that:

This information is being collected to authorize and evaluate proposed and ongoing mining operations on federal coal leases and to compute revenues owed to lessor.

Response to this request is mandatory for the types of activities specified in 43 CFR Group 3400.

BURDEN HOURS STATEMENT

Public reporting burden for this form is estimated to range from 25 minutes for reviewing the instructions and completing and signing the lease form to 500 burden hours for complying with the information requirements connected with resource recovery and exploration plans and mining plans. Direct comments regarding the burden estimate or any other aspect of this form to: U.S. Department of the Interior, Bureau of Land Management, (Alternate) Bureau Clearance Officer, 1849 C St., N.W., Washington, D.C. 20240, and the Office of Management and Budget, Paperwork Reduction Project (1004-0073), Washington, D.C. 20503

THE UNITED STATES OF AMERICA

Bowie Resources Limited
Company or Lessee Name

By _____

Belle Bean
(Signature of Lessee)

[Signature]
(Signing Officer)

Authorized Agent
(Title)

OSD - Resource Services
(Title)

September 5, 2000
(Date)

SEP 6 2000
(Date)

Title 18 U.S.C. Section 1001, makes it a crime for any person knowingly and willfully to make to any department or agency of the United States any false, fictitious or fraudulent statements or representations as to any matter within its jurisdiction.

This form does not constitute an information collection as defined by 44 U.S.C. 3502 and therefore does not require OMB approval.

COMPETITIVE COAL LEASE COC 61209
AMENDED SPECIAL STIPULATIONS

Sec. 15. (a) Cultural and Paleontological Resources. Prior to any surface disturbing activities, including subsidence, the lessee shall conduct a cultural resources survey and paleontological assessment of all previously unsurveyed areas that will be directly impacted by operations under this lease. The survey shall be an intensive field inventory of cultural, historical, and archaeological values, including, but not limited to, any and all objects of antiquity, historic or prehistoric ruins and artifacts, or other specimens of scientific interest. If the paleontological assessment demonstrates a need for a site specific inventory, this survey will also be performed.

(1) Surveys shall be conducted by a qualified professional cultural or paleontological resources specialist approved in advance by the Uncompahgre Field Office Manager or the Paonia District Ranger. A report on the survey and recommendations for protecting any identified cultural or paleontological resources shall be submitted to the Uncompahgre Field Manager or Paonia District Ranger. After review and approval of the report, surface disturbing operations may be further conditioned with the imposition of additional stipulations for protection of the identified cultural or paleontological resources.

(2) The cost of the cultural or paleontological resources survey, the report, and any measures to protect cultural or paleontological resources identified thereby shall be borne by the lessee. All identified items shall remain the property of the appropriate surface owner, but the United States reserves its right and obligation under applicable law to take action necessary to protect, preserve, or acquire such items.

(3) If any items or features of historical, cultural or archaeological value are discovered during lease operations, the lessee shall immediately notify the Uncompahgre Field Office Manager or the Paonia District Ranger and shall not disturb such items or features until the Uncompahgre Field Office Manager issues instructions. If the lessee is ordered to take measures to protect any items or features of historical, cultural or archaeological value discovered during lease operations, the cost of the measures shall be borne by the lessee and such items and features shall remain under the jurisdiction of the United States.

The cost of conducting the inventory, preparing the reports and carrying out mitigating measures shall be borne by the lessee. Of particular concern in this lease area are un-inventoried cultural resource sites associated with rock overhangs and escarpments.

(4) The lessee/operator is required to take measures to ensure that Dove Cave is protected from the negative effects of subsidence, and that its structural integrity is maintained.

(b) Threatened and Endangered Species. If there is reason to believe that new individuals or populations of Threatened or Endangered, or Sensitive (TES) species of plants or animals, or migratory bird species of high Federal interest occur in the area, the lessee 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 will be prepared. A plan will be prepared making recommendations for the protection of these species or action necessary to mitigate the disturbance. The cost of conducting the inventory, preparing reports and carrying out mitigating measures shall be borne by the lessee.

(1) Birds. (A) To protect and preserve breeding and nesting habitat for the Loggerhead shrike and other Neo-tropical birds, disturbances in sagebrush, Gambel oak stands, and riparian areas will be avoided to the extent practicable.

(B) No surface disturbance or facilities will be located in occupied southwest willow flycatcher habitat. Prior to any planned disturbance within riparian habitats on the lease, the lessee must:

(i) Survey the area of the proposed disturbance for suitable Southwest willow flycatcher habitat, and survey all suitable habitat for the presence of the species.

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All habitat and species surveys must be in accordance with the accepted U.S. Fish and Wildlife Service (USFWS) protocol;

(ii) Provide the results of all surveys to the USFWS, the Uncompahgre Field Office of BLM and the Paonia Ranger District of the USFS;

(iii) If suitable habitat or individuals are located in the area, consultation with the USFWS will be required to determine suitable conservation measures to prevent a "take" under section 9 of the Endangered Species Act. Conservation measures may include avoidance of the occupied habitat, establishment of a buffer zone and seasonal restriction around occupied habitat, or others developed for the specific site. In accordance with current protocol, surveys for the presence of the species are valid for only one year.

(c) Wildlife. (1) Raptors. (A) With respect to bald or golden eagle nests which may be established on the Iron Point lease during the life of the project, the following shall apply:

(i) No new permanent surface facilities or disturbances shall be located within a 1/4 mile radius buffer zone around each bald or golden eagle nest site.

(ii) No above ground activities will be allowed within a 1/4 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.

(iii) Any proposed surface facilities, disturbances or activities (noted above) in, or adjacent to, these buffer zones will require approval from the BLM or USFS on a site-specific basis, after consultation with the USFWS.

(B) With respect to bald eagle winter roost sites or concentration areas which may become established on the Iron Point lease during the life of the project, the following special stipulation shall apply:

(i) No above ground activities will be allowed within a 1/4 mile radius of winter roosts between November 15 and March 15; development may be permitted at other periods. 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.

(C) With respect to other raptors (except American Kestrel) which may occur or become established on the Iron Point lease during the life of the project, the following special stipulation shall apply:

(i) Conduct surveys for nesting raptors on the lease tract prior to development of any surface facilities. No surface activities will be allowed within 1/4 mile radius of active nest sites between the dates of February 1 and August 15, unless authorized by BLM or USFS on a site specific basis.

(2) Big Game Winter Ranges. (A) With respect to mule deer and elk crucial winter range that may be established by Colorado Division of Wildlife (CDOW) on BLM managed lands on the Iron Point lease during the life of the project, the following shall apply:

(i) Coal related facilities and surface disturbances except subsidence will be authorized in the review area only if no practical alternatives exist. The BLM will coordinate with the CDOW to determine the type and extent of allowable variances. Coal exploration, facility construction, and major scheduled maintenance will not be authorized within these crucial winter ranges from December 1 through April 30. All unavoidable surface disturbances within these crucial winter ranges during these times will require approval of the authorized officer.

(d) Water. (1) Water Replacement Plan. (A) Lessee shall replace in a manner consistent with state law the water supply of any owner of a vested water right which is proximately injured as a result of the mining activities.

(B) Lessee will conduct an inventory of all existing water sources (including gain/loss analyses on both Terror and Hubbard Creeks) adjacent to, originating on or flowing over the lease tract (including state adjudicated water rights, stock ponds, springs, etc.) which may be impacted by subsequent mining activities. At a minimum, this inventory will include the water right holder, location, source, amount of decrees, beneficial use, current and historical flow (including seasonal/annual variation), and the appropriation and adjudication dates. In addition to the water inventory, the Lessee shall be required to establish a water resource monitoring program to locate, measure and quantify the progressive and final effects of underground mining activities on the water resources potentially affected by mining. Monitoring of water resources would continue until a determination is made by the CDMG that there would be no injury to water resources.

(C) Lessee shall formulate a water replacement plan to replace the possible loss of water resulting from mining activity of the Iron Point lease. The water replacement plan will include all existing water sources, including those presently adjudicated and historically put to beneficial use in the Terror Creek and Hubbard Creek drainages. The water replacement plan for each respective drainage shall be developed after consultation with affected water right users, and federal and state authorities, and shall be approved by state authorities before mining in the particular drainage. At a minimum, the water replacement plan will require, upon injury, replacement of water of suitable quality and water right seniority to provide for all existing uses (including sources supporting livestock and ecosystem, and other land uses as authorized by 36 CFR 251) and be delivered to existing points of diversion in a timely manner. As part of each water replacement plan the lessee shall demonstrate its legal and physical ability to implement said plan. A source of replacement water may include, but is not limited to, the transfer of water rights, an augmentation plan, a long term water use lease, or compensatory storage.

(D) Fueling and lubricating vehicles are prohibited within 100 feet of streams and wetlands. No fuel storage is allowed within 500 feet of any water bodies.

(2) Riparian Zones. A 1/8 mile buffer zone (660 ft) will be protected on either side of the riparian zones (or a buffer zone may be established in accordance with the surface management agency guidelines). No surface disturbances, except surface subsidence, will be permitted within these buffer zones unless no practical alternatives exist. All unavoidable surface disturbances will require approval of the BLM and/or USFS authorized officer. The BLM or USFS will coordinate with the USFWS and CDOW to determine the type and extent of allowable variances. A site specific analysis will determine if this stipulation will apply.

(a) Road Right-of-Way. No mining related disturbances will occur within 100 feet of the outside line of the right-of-way of Hubbard Creek County Road (44.05 Drive) as identified in Unsuitability Criterion 3. The angle of draw used to protect the road from subsidence will be dictated by the approved CDMG Mine Permit Application Package, (the estimated angle of draw is conservatively estimated to be 25 degrees). However, mining related disturbances may occur if, after public notice and the opportunity for public hearing in the locality, a written finding is made by the BLM Authorized Officer that the interests of the public and the landowners affected by mining within 100 feet of a public road will be protected.

(f) Subsidence. (A) Except at specifically approved locations, mining that would cause subsidence will not be permitted within a zone under Terror Creek, Hubbard Creek and the Curacanti-Rifle 230/345 powerline. The zone is determined by projecting a 25 degree angle of draw (from vertical) from the surface expression of the creeks and powerline down to the top of the coal seam to be mined.

(B) The lessee shall be required to perform a study to establish baseline conditions, potential mining-induced seismicity and potential translated effects to the Bruce Park (Terror) Reservoir and dam. The study will be completed prior to any underground mining activity (including subsidence) within one mile of the Bruce Park Reservoir and dam. The Lessee shall also be required to establish a seismic monitoring program to locate, measure and quantify any progressive and final effects of underground mining activities on the Bruce Park Reservoir. The monitoring system shall utilize techniques which will provide a continuing record of change over time and an analytical method for location and measurement of a number of points over the

lease area. The study and monitoring program shall be developed in consultation with the Dam Safety Engineer, Colorado State Engineers Office, Water Division 4 and appropriate affected parties.

(C) Existing or permitted surface improvements will need to be protected, restored or replaced to provide for continuance of current land uses. With specific regard to the Bruce Park Reservoir and dam, should structural damage result from mining-related activities, the lessee shall be responsible for damage repair and compensation to the injured party or parties.

(D) The structural integrity of the coal in the chain and barrier pillars under Terror and Hubbard Creeks shall be designed and maintained for long term support. Backfilling or structural supports may be required to achieve long term support under the creeks and the structure upon retreat mining. A pillar stability analysis shall be used to design chain or barrier pillars for long term structural integrity where needed to protect surface resources.

(g) Transportation of Coal. The lessee will have thirty (30) months from the date of lease issuance to obtain alternative means for transporting the coal from the mine to the rail loadout. After that date, no federal coal from the lease will be transported via truck on State Highway 133 with the exception of specialty coal and instances of force majeure. In cases of force majeure, the lessee must obtain approval of the authorized officer.

(h) Surface Disturbing Activities. Any surface disturbance related to installation of degasification boreholes, ventilation shafts, drill holes or any other surface-disturbing activity must be approved by the surface management agency. The lessee/operator will be responsible for soil preservation/protection and final reclamation. For reclamation that would require reseeding, a certified weed free source of seed would be used. The lessee will be responsible for controlling spread of, and eradicating noxious weeds.

(i) Additional Stipulations for Forest Service Lands. (1) Mining that would cause subsidence will not be permitted under perennial portions of Terror Creek, Hubbard Creek and Dove Gulch. Further, mining that would cause subsidence will not be permitted within a zone under these drainages created by projecting a 25 degree angle of draw (from vertical) from the surface expression of the creeks down to the top of the coal seam to be mined.

(2) Specific approval will be required for locating drill sites, degasification boreholes or ventilation shafts or any other surface disturbances (if they are needed) in areas of moderate geologic hazards and on slopes ranging from 40 to 60 percent.

(3) Drill sites, degasification boreholes, ventilation shafts or any other surface disturbances will not be located on slopes in excess of 60 percent, or in areas of high geologic hazard.

(4) No surface occupancy or use will apply to all wetlands, floodplains and riparian areas on the National Forest.

(5) With regard to protecting elk on the winter range and minimizing surface damage, no surface use (exploration, drilling and development activity) will be allowed from October 1 through May 15, or whenever conditions in the spring allow operations without causing surface damage. Operations between October 1 and the Friday preceding regular big game hunting season may be allowed during dry weather upon written authorization of the Forest Service.

(6) If new road access is required for the construction of degasification boreholes or ventilation shafts, accesses will be obliterated. Until obliteration, all new access will be closed to the public. Long term access will be by foot and horse.

(7) Lands contained within this lease are subject to the Forest Service Interim Rule, "Administration of the Forest Service Development Transportation System: Temporary Suspension of Road Construction and Reconstruction in Unroaded Areas"; Federal Register/Vol. 64, No. 29/Friday, February 12, 1999, pages 7290 through 7305.

These lands will also be subject to the final road management policy which will be set within 18 months. No road construction will be allowed within the unroaded area until the Forest service adopts its revised road management policy or 18 months from the effective date of this final interim rule, whichever is sooner.

(8) The lessee shall provide for the suppression and control of fugitive dust on roads used by the lessee.

(9) The lessee will be required to comply with BLM stipulations regarding transport of coal from the lease.

(10) The lessee shall be required to perform a study to secure adequate baseline data to quantify existing surface resources on and adjacent to the lease area. Existing data may be used if such data are adequate for the intended purposes. The study shall be adequate to locate, quantify and demonstrate the interrelationship of the geology, topography, surface hydrology, soils, vegetation and wildlife. Baseline data will be established so that future programs of observation can be incorporated at regular intervals for comparison.

(11) The lessee shall be required to establish a monitoring system to locate, measure, and quantify any progressive and final effects of underground mining activities on the topographic surface, subsurface and surface hydrology, soils and vegetation. The monitoring system shall utilize techniques which will provide a continuing record of change over time and an analytical method for location and measurement of a number of points over the lease area.

(12) The licensee/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 and regulations must be complied with for (a) all use and occupancy of the NFS prior to approval of a permit/operation plan by the Secretary of the Interior, (b) uses of all existing improvements, such as Forest Development Roads, within and outside the area licensed, permitted or leased by the Secretary of the Interior, and (c) use and occupancy of the NFS not authorized by a permit/operating plan approved by the Secretary of the Interior.

All matters related to this stipulation are to be addressed to:

Forest Supervisor
Grand Mesa, Uncompahgre and Gunnison National Forests
2250 Highway 50
Delta, CO 81416

who is the authorized representative of the Secretary of Agriculture.

X *Ruth H. Suter*
Signature of licensee/permittee/lessee

THE UNITED STATES OF AMERICA
By: *Jamale Edwards*
Title: *Chief, Solid Minerals*
Date: *2/12/01*

BOWIE RESOURCES, LTD.
By: *Ruth H. Suter*
Title: *President*
Date: *2/19/01*