

File Code: 1570; 2800
Date: **DEC 11 2017**

Greg Shoop, Acting State Director, Colorado State Office
Attn: Elizabeth Dawson
Bureau of Land Management
2850 Youngfield Street
Lakewood, CO 80215-7076

RE: Modifications of existing Federal Coal Leases COC-1362 and COC-67232 on the Grand Mesa, Uncompahgre and Gunnison National Forests

Dear Mr. Shoop:

Per a December 11, 2017 decision by the Grand Mesa, Uncompahgre and Gunnison National Forests' Forest Supervisor, Scott Armentrout, the Forest Service provides consent to lease on National Forest System lands. This decision is in response to a January 30, 2015 BLM request for consent to lease. Forest Service consent includes conditions to protect non-mineral resources included in Federal Coal Lease Modification COC-1362, Tract 3, and COC-67232, Tract 1, as described in the enclosed Attachment A. The conditions to protect non-mineral resources, identified as stipulations, are given in Attachment B also enclosed. As per 43 CFR 3461, the Forest Supervisor identified no significant recreational, timber, economic, other values, or exceptions incompatible with modifying the leases.

Concurrent with analysis for leasing, the SFEIS also analyzed effects of the BLM proposed action to approve an on-lease coal exploration plan. According to the applicable regulations at 43 CFR 3482.2(a)(1), the Forest Service's role in reviewing the exploration plan is to concur to the approval terms, and determine the adequacy of the reclamation bond amount. The Forest Supervisor concurs with BLM's approval terms of the exploration plan. Also, the Grand Mesa, Uncompahgre and Gunnison National Forests' Forest Supervisor determined the current reclamation bond amount held from a previous iteration of the exploration plan by Colorado Division of Reclamation, Mining and Safety is adequate, and recognizes this bond amount may be renegotiated between the State and the lessee following a decision by BLM to modify the leases. The bond amount must be adequate to reclaim any lease-related disturbances on Forest Service land surfaces.

If you have any questions concerning this matter, please contact Jason Robertson, Deputy Director of the Recreation, Lands, Minerals, and Volunteers staff, at 303-275-5470 or jasondrobertson@fs.fed.us.

Sincerely,



CATHERINE KAHLOW
Acting Director, Recreation, Lands,
Minerals and Volunteers

Enclosures (3)

cc: Scott Armentrout, Levi Broyles, Niccole Mortenson, Thomas L Williams



Attachment A

Lease Modification Tract	Location	Acreage
COC-1362	T. 14 S., R. 90 W., 6th P.M.	800 acres more or less.
	Sec. 10: SE, NESW;	
	Sec. 11: SW, S2NW;	
	Sec. 14: NWNW, NENW, W2SENW, SWNW, NWSW, W2NESW;	
	Sec. 15: E2NE, N2SE	
COC-67232	T. 14 S., R. 90 W., 6th P.M.	920 acres more or less.
	Sec. 11: SWNE, W2SE, SESE	
	Sec. 14: E2SENW, NE, SE, S2SW, E2NESW;	
	Sec. 15: SESE;	
	Sec. 22: E2NE;	
	Sec. 23: NW, NWNE	

Attachment B- Stipulations for National Forest System Lands Federal Coal Lease COC-1362 & COC-67232

Resource Area	Stipulations Carried Forward from Parent Lease COC-1362 Specific to Forest Service Lands	Stipulations Carried Forward from Parent Lease COC-67232 Specific to Forest Service Lands	Stipulations Specific to Lease Modifications
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: • Contact the FS to determine if a site specific cultural resource inventory is required. If a survey is required then: • 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	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: • Contact the FS to determine if a site specific cultural resource inventory is required. If a survey is required then: • 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	Use language from parent leases (required Standard Notice for Lands under the Jurisdiction of the Department of Agriculture.)

Resource Area	Stipulations Carried Forward from Parent Lease COC-1362 Specific to Forest Service Lands	Stipulations Carried Forward from Parent Lease COC-67232 Specific to Forest Service Lands	Stipulations Specific to Lease Modifications
	inventory report is to be submitted to the FS for review and approval at the time a surface disturbing plan of operation is submitted. - 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 license, and shall leave such discoveries intact until directed to proceed by FS and BLM.	inventory report is to be submitted to the FS for review and approval at the time a surface disturbing plan of operation is submitted. - 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 license, and shall leave such discoveries intact until directed to proceed by FS and BLM.	

Resource Area	Stipulations Carried Forward from Parent Lease COC-1362 Specific to Forest Service Lands	Stipulations Carried Forward from Parent Lease COC-67232 Specific to Forest Service Lands	Stipulations Specific to Lease Modifications
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 would be in violation of the Endangered Species Act of 1973 by detrimentally affecting endangered or 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.	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. 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.	Use language from parent leases, required Standard Notice for Lands under the Jurisdiction of the Department of Agriculture. Use language from parent leases, required Standard Notice for Lands under the Jurisdiction of the Department of Agriculture.

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	inventory of the area to be disturbed and/or impacted. The inventory shall include species or groups of species identified by the FS, and will be conducted to by a qualified specialist. A report of findings will be prepared and provided to the FS. A plan will be made that recommends protection for these species or action necessary to mitigate the disturbance consistent with the Forest Plan. The cost of conducting such inventory, preparing reports and carrying out mitigation measures shall be borne by the Lessee/Operator.	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.	
Canada Lynx	To comply with the USDA Forest Service Conservation Agreement with Fish and Wildlife Service, to follow the conservation measures in the Canada Lynx Conservation Assessment and Strategy (Ruediger et al. 2000), the following special constraints will apply if surface use on the lease is proposed in lynx habitat: • Winter access will be limited to designated routes. • Further, should surface disturbing operations be proposed on the lease in lynx habitat, the following special constraints may apply, depending on site-specific circumstances:	To comply with the Canada Lynx Assessment and Strategy (Ruediger et al. 2000), the following special constraints will apply if post-lease surface use is proposed in lynx habitat: • Winter access will be limited to designated routes. Further, should post-lease operations be proposed on the lease in lynx habitat, the following special constraints may apply, depending on site-specific circumstances: • Remote monitoring of the development sites and facilities may be required to reduce snow compaction.	To comply with the GMUG Forest Plan 2008 amendment, the following special constraints will apply if surface use on the lease is proposed in lynx habitat: • Winter access will be limited to designated routes. Further, should surface disturbing operations be proposed on the lease in lynx habitat, the following special constraints will apply: • Remote monitoring of the development sites and facilities will be required to reduce snow compaction. • A reclamation plan (e.g. road reclamation and vegetation

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	- Remote monitoring of the development sites and facilities may be required to reduce snow compaction. - A reclamation plan (e.g. road reclamation and vegetation rehabilitation) for sites and facilities that promotes the restoration of lynx habitat may be required. - Public motorized use on new roads constructed for project-specific purposes will be restricted. - Access roads will be designed to provide for effective closures and will be reclaimed or decommissioned at project completion if they are no longer needed for other management objectives. - New permanent roads will not be built on ridge tops or in saddles, or in areas identified as important for lynx habitat connectivity. New roads will be situated away from forested stringers.	- A reclamation plan (e.g. road reclamation and vegetation rehabilitation) for sites and facilities that promotes the restoration of lynx habitat may be required. - Public motorized use on new roads constructed for project-specific purposes will be restricted. - Access roads will be designed to provide for effective closures and will be reclaimed or decommissioned at project completion if they are no longer needed for other management objectives. - New permanent roads will not be built on ridge tops or in saddles, or in areas identified as important for lynx habitat connectivity. New roads will be situated away from forested stringers. - If post lease surface use occurs in lynx habitat, the Lessee will be required to submit an annual report to the USDA-FS and USFWS of all activities having occurred in lynx habitat.	- rehabilitation) for sites and facilities that promotes the restoration of lynx habitat will be required. - Public motorized use on new roads constructed for project-specific purposes will be restricted. - Access roads will be designed to provide for effective closures and will be reclaimed or decommissioned at project completion if they are no longer needed for other management objectives. - New permanent roads will not be built on ridge tops or in saddles, if possible, or in areas identified as important for lynx habitat connectivity. New roads will be situated away from forested stringers, if possible.

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Raptors	For raptors (except American kestrel) the Lessee will be required to: - Conduct surveys for nesting raptors on the lease prior to development of any surface facilities, and - No surface activities will be allowed within ¼ mile radius of active nest sites between the dates of February 1 and August 15, unless authorized by the Forest Service on a site-specific basis. - No surface activities will be allowed within 1-mile radius of active bald eagle or peregrine falcon nest sites between the dates of February 1 and August 15, unless authorized by the Forest Service on a site-specific basis.	For raptors (except American kestrel) the Lessee will be required to: - Conduct surveys for nesting raptors on the lease prior to development of any surface facilities, and - No surface activities will be allowed within ¼-mile radius of active nest sites between the dates of February 1 and August 15, unless authorized by the Forest Service on a site-specific basis.	Use combined language from COC-67232 and COC-1362 which reflects Forest Plan standards as well as guidelines from the Biological Evaluation for this project: - Conduct surveys for nesting raptors on the lease prior to development of any surface facilities, and - No surface activities will be allowed within ¼-mile radius of active nest sites between the dates of February 1 and August 15, unless authorized by the Forest Service on a site-specific basis. - No surface activities will be allowed within 1-mile radius of active bald eagle or peregrine falcon nest sites * between the dates of February 1 and August 15, unless authorized by the Forest Service on a site-specific basis. (* No bald eagle or peregrine falcon nest site habitat has been identified within the lease modifications as indicated in the Biological Evaluation prepared for this analysis.) Use language from parent leases.
Big game winter range	In order to protect big game wintering areas, elk calving areas, and other key wildlife habitat and/or activities, specific surface use may be curtailed during specific times of year. Specific time restrictions for	In order to protect big game wintering areas, elk calving areas, and other key wildlife habitat and/or activities, specific surface use may be curtailed during specific times of year. Specific time restrictions for	

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	specific species will be evaluated by the Forest Service at the individual project stage, and any additional site specific conditions of use developed at that time.	specific species will be evaluated by the Forest Service at the individual project stage, and any additional site specific conditions of use developed at that time.	
Water depletions	In the future, if water to be used for mine related activities is taken from a source that is not considered to be non-tributary waters by the U.S. Fish and Wildlife Service, or which exceeds a depletion amount previously consulted upon, 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.	In the future, if water to be used for mine related activities is taken from a source that is not considered to be non-tributary waters by the U.S. Fish and Wildlife Service, or which exceeds a depletion amount previously consulted upon, 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.	Based on the CRR Section 7 consultation effort for the CRR's NFCMA in 2016, the Forest Service took on the responsibility for reinitiating consultation if minor water depletion caps were exceeded. The Forest Service wants to ensure the lessee provides the necessary information from monitoring and reporting to determine if minor water depletion caps are exceeded, and, in the highly unlikely event that the depletion caps were exceeded, the lessee would meet any additional conservation measures the USFWS might require. This updated stipulation provides clarification to the process that has been occurring on the parent leases regarding water depletion. Changes to stipulation are in <i>italics</i>. In the future, if water to be used for mine related activities is taken from a source that is not considered to be non-tributary waters by the U.S. Fish and Wildlife Service, or which exceeds a depletion amount previously consulted upon, <i>the surface management agency</i> must enter into consultation with the

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			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. <i>The lessee shall monitor and report all depletions to the Forest Service. Notwithstanding the fact that the surface management agency has the obligation to consult, the Lessee has the obligation to comply with all appropriate conservation measures to offset effects to listed fish and critical habitat in the upper Colorado River Basin in the event the depletion threshold is exceeded and additional reasonable and prudent actions are required.</i>
Breeding birds	If surface disturbance is proposed on the lease, the lessee/operators will be required to conduct breeding bird surveys prior to surface disturbance as prescribed by the Forest Service.	If surface disturbance is proposed on the lease, the lessee/operators will be required to conduct breeding bird surveys prior to surface disturbance.	Use language from COC-1362 parent lease on both modifications.
Geologic hazards	No surface occupancy would be allowed in areas of high geologic hazard or high erosion potential, or on slopes which exceed 60%.	No surface occupancy would be allowed in areas of high geologic hazard or high erosion potential.	Use language from parent lease COC-1362 on both modifications.
	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	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	Use language from parent leases.

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	include engineers, soil scientist, hydrologist, landscape architect, reclamation specialist and mining engineer.	include engineers, soil scientist, hydrologist, landscape architect, reclamation specialist and mining engineer.	
Baseline Information	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.	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 Dry Fork lease tract.	Use language from parent leases.
Monitoring Program	The operator/lessee 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 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 on the lease area. The monitoring program shall incorporate baseline data so as to provide a continuing record over time.	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 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.	Use language from parent leases.

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Riparian, wetland or floodplain	Surface use or disturbances (except for surface subsidence and resource monitoring purposes defined in the approved mining permit) will avoid riparian, wetland or floodplain areas, and 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.	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.	Use language from parent leases.
Subsidence	If subsidence adversely affects surface resources in any way (including, but not limited to a documented water loss), the 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.	If subsidence adversely affects surface resources in any way (including, but not limited to a documented water loss), the 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.	Use language from parent leases.
	The Lessee/Operator shall be responsible for monitoring, repairing and/or mitigating	The Lessee/Operator shall be required to perform the following with respect to	As parent lease for COC-67232 deals specifically with an irrigation ditch on

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	subsidence effects on existing facilities under Special Use Permit with the Forest Service. Monitoring, repair and/or mitigation, if needed, would be performed at the Lessee's expense. These requirements will be coordinated with the District Ranger and the Special Use Permittee.	monitoring, repairing and/or mitigating subsidence effects on existing facilities under Special Use Permit with the Forest Service. Monitoring, repair and/or mitigation will be performed at the Lessee's expense. The Lessee may request variations on timing for surveys, monitoring and reporting. Approving such requests would be at the discretion of the District Ranger. a. Baseline condition surveys of existing facilities will be completed the Fall following award of lease. Reports of this survey will be deliverable to the Forest Service by December 1 of that same year. b. In consultation with the Special Use Permittee and the Forest Service, install equipment to monitor flow on water conveyance facilities during the Fall following award of lease. Flow monitoring shall commence the following spring and continue until one year post mining. Flow data shall be provided to the Forest Service annually by December 1. c. A Surface Facility Monitoring and Mitigation Plan (Plan) will be submitted to the Forest Service for review and approval not later than 12 months prior to scheduled undermining. The Plan will detail measures to be taken to monitor, repair and mitigate subsidence effects of the facilities during actual mining and for one year.	that lease, use language from COC-1362 on both lease modifications.

Resource Area	Stipulations Carried Forward from Parent Lease COC-1362 Specific to Forest Service Lands	Stipulations Carried Forward from Parent Lease COC-67232 Specific to Forest Service Lands	Stipulations Specific to Lease Modifications
Roadless	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 an exploration 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 the permit/operation approved by the Secretary of the Interior. Federal Coal Lease C-1362, as modified October 2001 All or parts of the following lands encompassed in this lease are in the West Elk Inventoried Roadless Area and may be subject to restrictions on road-building pursuant to rules and regulations of the Secretary of Agriculture applicable at the time any roads may be proposed on the lease.	All or parts of the following lands encompassed in this lease are in the West Elk Inventoried Roadless Area and may be subject to restrictions on road-building pursuant to rules and regulations of the Secretary of Agriculture applicable at the time any roads may be proposed on the lease. All or parts of the following lands encompassed in this lease are in the West Elk Inventoried Roadless Area and may be subject to restrictions on road-building pursuant to rules and regulations of the Secretary of Agriculture applicable at the time any roads may be proposed on the lease.	On the following lands within the Sunset 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 landscapes restored when it is determined that the

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	Legal descriptions are approximate. Locations of any proposed surface use would be verified for relationship to IRA boundaries using site-specific maps if/when surface operations are proposed.		road is no longer needed for the established purpose ◦ All temporary roads must prohibit public motorized vehicles (including off-highway vehicles) except: I. Where specifically used for the purpose for which the road was established; or II. Motor vehicle use that is specifically authorized under a Federal law or regulation. 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. ◦ 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

Resource Area	Stipulations Carried Forward from Parent Lease COC-1302 Specific to Forest Service Lands	Stipulations Carried Forward from Parent Lease COC-67232 Specific to Forest Service Lands	Stipulations Specific to Lease Modifications
			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 areas of surface disturbance shall be reclaimed as prescribed in the authorization and the approved reclamation plan and may not be waived.
Visuals	n/a	n/a	Within the lease modification areas, 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.

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Methane use	n/a	n/a	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.

BLM-specific Lease Stipulations for Protection of Non-Mineral (Surface) Resources

Resource Area	Addendum Carried Forward from Parent Lease COC-1362 Specific to Forest Service Lands	Addendum Carried Forward from Parent Lease COC-67232 Specific to Forest Service Lands	Revised Addendum per BLM IM 2017-037 (January 20, 2017)
Methane Flaring, Capture/Use or other alternatives to venting	Sec. 3. Notwithstanding the language in Sec.2 of this lease and subject to the terms and conditions below, lessee is authorized to drill for, extract, remove, develop, produce and capture for use or sale any or all of the coal mine methane from the above described lands that it would otherwise be required to vent or discharge for safety purposes by applicable laws and regulations. For purposes of this lease, "coal mine methane" means any combustible gas located in, over, under, or adjacent to the coal resources subject to this lease, that will or may infiltrate underground mining operations. Sec. 4. Notwithstanding any other provision of this lease, nothing herein shall, nor shall it be interpreted to, waive, alter or amend lessee's right to	Sec. 3. Notwithstanding the language in Sec.2 of this lease and subject to the terms and conditions below, lessee is authorized to drill for, extract, remove, develop, produce and capture for use or sale any or all of the coal mine methane from the above described lands that it would otherwise be required to vent or discharge for safety purposes by applicable laws and regulations. For purposes of this lease, "coal mine methane" means any combustible gas located in, over, under, or adjacent to the coal resources subject to this lease, that will or may infiltrate underground mining operations. Sec. 4. Notwithstanding any other provision of this lease, nothing herein shall, nor shall it be interpreted to, waive, alter or amend lessee's right to	"Section 3. Notwithstanding the language in Section 2 of the lease and subject to the terms and conditions below, lessee is authorized to drill for, extract, remove, develop, produce and capture for use or sale any or all of the waste mine methane for the above described lands that it would otherwise be required to vent or discharge for safety purposes by applicable laws and regulations. For purposes of this lease, "waste mine methane" means any combustible methane gas located in, over, under, or adjacent to the coal resources subject to this lease, that will or may infiltrate underground mining operations and that must be vented to protect the health and safety of the mine workers.

Resource Area	Addendum Carried Forward from Parent Lease COC-1362 Specific to Forest Service Lands	Addendum Carried Forward from Parent Lease COC-67232 Specific to Forest Service Lands	Revised Addendum per BUM IM 2017-037 (January 20, 2017)
	vent, discharge or otherwise dispose of coal mine methane as necessary for mine safety or to mine the coal deposits consistent with permitted underground mining operations and federal and state law and regulation. Lessee shall not be obligated or required to capture for use or sale coal mine methane that would otherwise be vented or discharged if the capture of coal mine methane, independent of activities related to mining coal, is not economically feasible or if the coal mine methane must be vented in order to abate the potential hazard to the health or safety of the coal miners or coal mining activities. In the event of a dispute between lessor and lessee as to the economic or other feasibility of capturing for use or sale the coal mine methane, lessor's remedy as a prevailing party shall be limited to recovery of the compensatory royalties on coal mine methane not captured for use or sale by lessee. Lessee shall have the right to continue all mining activities under the lease, including venting coal mine methane, pending resolution of any dispute regarding the application of the terms of Sections 3 and 4. Sec. 2 (c) COAL MINE METHANE OPERATIONS AND ROYALTIES- Notwithstanding the language in Part II,	vent, discharge or otherwise dispose of coal mine methane as necessary for mine safety or to mine the coal deposits consistent with permitted underground mining operations and federal and state law and regulation. Lessee shall not be obligated or required to capture for use or sale coal mine methane that would otherwise be vented or discharged if the capture of coal mine methane, independent of activities related to mining coal, is not economically feasible or if the coal mine methane must be vented in order to abate the potential hazard to the health or safety of the coal miners or coal mining activities. In the event of a dispute between lessor and lessee as to the economic or other feasibility of capturing for use or sale the coal mine methane, lessor's remedy as a prevailing party shall be limited to recovery of the compensatory royalties on coal mine methane not captured for use or sale by lessee. Lessee shall have the right to continue all mining activities under the lease, including venting coal mine methane, pending resolution of any dispute regarding the application of the terms of Sections 3 and 4. Sec. 2 (c) COAL MINE METHANE OPERATIONS AND ROYALTIES- Notwithstanding the language in Part II,	Section 4. Notwithstanding any other provision of this lease, nothing herein waives, alters, or amends lessee's right to vent, discharge or otherwise dispose of waste mine methane as necessary for mine safety or lessee's obligation to mine the coal deposits consistent with Federal and state law and regulation and with safety requirements contained in permits applicable to underground mining operations subject to this lease. Lessee is not obligated or required to capture for use or sale waste mine methane that would otherwise be vented or discharged if the capture of waste mine methane, independent of the activities related to mining coal, is not economically feasible, or if the waste mine methane must be vented in order to abate the potential hazard to the health or safety of the miners or mining activities. In the event of a dispute between the lessor and the lessee as to the economic or technical feasibility of capturing the waste mine methane for use or sale, lessor's remedy as a prevailing party is limited to recovery of compensatory royalties on the waste mine methane not captured for use or sale by the lessee. Lessee retains the right to continue all mining activities under the lease, including venting waste mine methane, pending resolution of

Addendum Carried Forward from Parent
Lease COC-1362 Specific to Forest
Service Lands

Resource Area

Section 2 (a) of this lease, the royalty shall be 12.5 percent of the value of any coal mine methane that is captured for use or sale from this lease. For purposes of this lease, the term "capture for use or sale" shall not include and the royalty shall not apply to coal mine methane that is vented or discharged and not captured for the economic or safety reasons described in Part I, Section 4 of this lease. Lessee shall have no obligation to pay royalties on any coal mine methane that is used on or for the benefit of mineral extraction at the West Elk coal mine. When not inconsistent with any express provision of this lease, the lease is subject to all rules and regulations related to Federal gas royalty collection in Title 30 of the Code of Federal Regulations now or hereinafter in effect and lessor's rules and regulations related to applicable reporting and gas measurement now or hereinafter in effect

SEVERABILITY- In the event any provision of this addendum is subject to a legal challenge or is held to be invalid, unenforceable or illegal in any respect, the validity, legality and enforceability of this lease will not in any way be affected or impaired thereby and lessee will retain, in accordance with the terms of

Section 2 (a) of this lease, the royalty shall be 12.5 percent of the value of any coal mine methane that is captured for use or sale from this lease. For purposes of this lease, the term "capture for use or sale" shall not include and the royalty shall not apply to coal mine methane that is vented or discharged and not captured for the economic or safety reasons described in Part I, Section 4 of this lease. Lessee shall have no obligation to pay royalties on any coal mine methane that is used on or for the benefit of mineral extraction at the West Elk coal mine. When not inconsistent with any express provision of this lease, the lease is subject to all rules and regulations related to Federal gas royalty collection in Title 30 of the Code of Federal Regulations now or hereinafter in effect and lessor's rules and regulations related to applicable reporting and gas measurement now or hereinafter in effect

SEVERABILITY- In the event any provision of this addendum is subject to a legal challenge or is held to be invalid, unenforceable or illegal in any respect, the validity, legality and enforceability of this lease will not in any way be affected or impaired thereby and lessee will retain, in accordance with the terms of

any dispute regarding the application of the terms of Sections 3 and 4.

PART II. TERMS AND CONDITIONS (c)
WASTE MINE METHANE OPERATIONS
AND ROYALTY – Notwithstanding the language in Part II, Sec.2(a) of this lease, the royalty will be 12.5 percent of the value of any waste mine methane that is captured for use or sale from this lease. For purposes of this lease, the term "capture for use or sale" does not include, and the royalty will not apply to, waste mine methane that is vented, or otherwise discharged and not captured, for the economic feasibility or safety reasons described in Part I, Section 4 of this lease. Lessee will have no obligation to pay royalties on any waste mine methane that is used on or for the benefit of mineral extraction at the (insert mine name here) coal mine. When not inconsistent with any express provision of this lease, this lease is subject to all the rules and regulations related to Federal gas royalty collection in Title 30 of the Code of Federal Regulations now or hereinafter in effect and the lessor's rules, regulations, notices, and orders related to applicable reporting and gas measurement now or hereinafter in effect.

Addendum Carried Forward from Parent Lease COC-67232 Specific to Forest Service Lands

Addendum Carried Forward from Parent Lease COC-1362 Specific to Forest Service Lands

Resource Area

this lease, the exclusive right and privilege to drill for, mine, extract, remove or otherwise process and dispose of the coal deposits upon, or under the lands described in this lease, including the right to vent or discharge coal mine methane for safety purposes as required by applicable laws and regulation.

this lease, the exclusive right and privilege to drill for, mine, extract, remove or otherwise process and dispose of the coal deposits upon, or under the lands described in this lease, including the right to vent or discharge coal mine methane for safety purposes as required by applicable laws and regulation.

SEVERABILITY – In the event any provision of this addendum is subject to a legal challenge or is held to be invalid, unenforceable, or illegal in any respect, the validity, legality, and enforceability of this lease will not in any way be affected or impaired thereby and lessee will retain, in accordance with the terms of this lease, 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 lands described in this lease, including the right to vent or otherwise discharge waste mine methane for safety purposes as required by applicable laws and regulations.

West Elk Mine shall provide to BLM an updated report on the economic feasibility of capturing or flaring the mine's mine methane for beneficial use or abatement, and should provide it to BLM no later than 1 year after the modification is approved.



Forest Service

Grand Mesa, Uncompahgre and
Gunnison National Forests

2250 South Main Street
Delta, CO 81416
970-874-6600
TDD: 970-874-6660
Fax: 970-874-6698

File Code: 2820
Route To:

Date: December 11, 2017

Subject: Consent to BLM, Federal Coal Lease COC-1362 and COC-67232 Modifications
To: Regional Forester

In 2009 the Bureau of Land Management Colorado State Office (BLM) forwarded a request for Forest Service consent regarding two lease modifications submitted by Ark Land LLC for federal coal leases COC-1362 (held by Mountain Coal Company, LLC (MCC)) and COC-67232 (held by Ark Land LLC (Ark)) which would add about 800 and 920 acres, respectively, to the existing leases. The modifications lie in portions of Sections 10, 11, 14, 15, 22 and 23 of T. 14S., R. 90W., 6th PM in Gunnison County, Colorado on the Grand Mesa, Uncompahgre and Gunnison National Forests (GMUG).

In 2012, the Forest Service consented to the BLM modifying the leases, and the BLM proceeded to modify the leases. In 2013, these decisions, along with a BLM decision approving on-lease exploration were litigated. On September 11, 2014, Judge Jackson of the Colorado District Court vacated these three agency decisions. *High Country Conservation Advocates et al. v U.S. Forest Service, et al.* 52 F. Supp.3d 1174 (Colorado 2014).

Because decisions were vacated, the lease modifications were invalidated by BLM. Subsequently, ArkLand resubmitted applications to modify the leases to BLM on January 30, 2015. The BLM in turn, sent the Forest Service a request for consent to lease.

On September 8, 2017, a Supplemental Final Environmental Impact Statement (SFEIS) and Draft Record of Decision (ROD) were published. Multiple administrative objections were received by the Forest Service. Deputy Regional Forester Maribeth Gustafson completed final administrative review of the SFEIS and Draft ROD on December 7, 2017. On December 11, 2017, I decided through a Record of Decision to provide the BLM Colorado State Office consent to lease the National Forest System lands with conditions to protect non-mineral resources included in Federal Coal Lease Modification COC-1362, Tract 3, and COC-67232, Tract 1, as described in Attachment A. The conditions to protect non-mineral resources, identified as stipulations, are given in Attachment B.

Concurrent with analysis for leasing, the SFEIS analyzed effects of the BLM proposed action to approve an on-lease coal exploration plan. According to the applicable regulations at 43 CFR 3482.2(a)(1), the Forest Service role associated with this action is to concur to the approval terms of the exploration plan, and determine the adequacy of the reclamation bond amount. By this letter, I am also concurring with BLM's approval terms of the exploration plan as described in



the SFEIS in Section 2.2.3.2, and applied through the stipulations in Attachment B. This concurrence is contingent upon on review of MCC's existing FS Road Use Permit to ensure exploration is included, Contract for Removal of Forest Service Timber in exploration area is completed, ensure Nonnative Invasive Control Plan includes exploration activities, and any other required State and Federal authorizations and permits are obtained. In addition, I have determined that the current reclamation bond amount held from a previous iteration of the exploration plan by Colorado Division of Reclamation, Mining and Safety to be adequate.

Consistent with Forest Service Manual 2822.04, please inform the BLM Colorado State Office that the Forest Service consent to the BLM modifying the existing coal leases with NFS lands described in Attachment A, that the Forest Service consent is conditioned with stipulations to protect the non-mineral resources as shown in Attachment B, and per 43 CFR 3461, I 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 modifying the leases within the analysis. Please also inform the BLM of Forest Service concurrence to the approval terms of the on-lease exploration plan, and that we have determined the reclamation bond to be adequate. I understand that notification should be sent to Greg Shoop, Acting Colorado State Director, BLM, with a courtesy copy to Elizabeth (Lisa) Dawson, Solid Minerals Branch Chief, Colorado BLM State Office.



SCOTT G. ARMENTROUT
Forest Supervisor

Enclosures (2)

cc: Sharon Gresl