



# United States Department of the Interior

BUREAU OF LAND MANAGEMENT  
Tres Rios Field Office  
29211 Highway 184  
Dolores, CO 81323



OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT  
WESTERN REGION  
1999 Broadway, Suite 3320  
Denver, CO 80202

In Reply Refer To:  
FILE CODE (COS01000)  
RE: COC-78825

February 21, 2019

Fish and Wildlife Service  
Ecological Services  
Colorado Field Office  
P.O. Box 25486-DFC MS 65412  
Denver, Colorado 80225-0486

Subject: Request for Reinitiation of Section 7 Consultation Addressing Mining at the King II Mine in La Plata County, Colorado (TAILS: 06E24000-2017-I-1053)

Dear Mr. DeBerry,

As previously discussed with Leslie Ellwood on September 6, 2018 U.S. Fish and Wildlife Service (FWS), the Office of Surface Mining Reclamation and Enforcement (OSMRE), and the Bureau of Land Management (BLM) agreed to request reinitiation, of consultation with the FWS, as provided for under Section 7 of the Endangered Species Act (ESA), on the proposed expansion of the underground coal mine at the King II Mine, operated by GCC Energy, LLC (GCCE), in La Plata County, Colorado (**Figure 1**). This reinitiation of consultation is based on two factors: (1) continuation of underground mining in new areas beyond what was described in previous consultation with up to 20 acres of new surface disturbance; and (2) evaluation of potential suitable habitat for the New Mexico jumping mouse (*Zapus hudsonicus luteus*) and southwestern willow flycatcher (*Empidonax trailii eximius*) at the location of the surface disturbance.

## Previous Consultation

On July 10, 2017 OSMRE and BLM submitted a Biological Assessment (BA) regarding the proposed King II Mine Expansion for GCCE. That BA requested concurrence with the determination that the proposed action may affect but is not likely to adversely affect the Rio Grande silvery minnow (*Hybognathus amarus*) and its critical habitat, greenback cutthroat trout (*Oncorhynchus clarkia stomias*), Colorado pikeminnow (*Ptychocheilus luscious*) and its critical habitat, and the razorback sucker (*Xyrauchen texanus*) and its critical habitat. The USFWS responded on August 16, 2017 concurring with that determination.

## Proposed Action

On January 10, 2018 BLM received a Lease by Application (LBA) from GCCE to expand the King II Mine. The LBA seeks to add 2,462 acres of land and the underlying federal coal reserves immediately north and northwest of GCCE's existing federal lease and mine operations (**Figure 2**). The BLM and OSMRE are

responsible for preparing an environmental assessment (EA) under the National Environmental Policy Act (NEPA) of 1969, as amended. The BLM and OSMRE are jointly preparing the EA to analyze potential impacts of leasing and mining the 2,462 acres of federal coal.

GCCE's LBA proposes to lease coal underlying the following lands:

**New Mexico Principle Meridian**

**Township 35 North, Range 11 West**

Section 18: lots 2 thru 5, 8, 9, 10, SE  $\frac{1}{4}$  NW  $\frac{1}{4}$ , and NE  $\frac{1}{4}$  SW  $\frac{1}{4}$ .

Section 19: lots 1, 2, 6, and 7, NE  $\frac{1}{4}$  NW  $\frac{1}{4}$ , and N  $\frac{1}{2}$  SE  $\frac{1}{4}$  NW  $\frac{1}{4}$ .

**Township 35 North, Range 12 West**

Section 13: S  $\frac{1}{2}$  NE  $\frac{1}{4}$ , SE  $\frac{1}{4}$  NW  $\frac{1}{4}$ , S  $\frac{1}{2}$  SW  $\frac{1}{4}$ , NE  $\frac{1}{4}$  SE  $\frac{1}{4}$ , and S  $\frac{1}{2}$  SE  $\frac{1}{4}$ ;

Section 14: S  $\frac{1}{2}$  NE  $\frac{1}{4}$  SW  $\frac{1}{4}$ , S  $\frac{1}{2}$  NW  $\frac{1}{4}$  SW  $\frac{1}{4}$ , S  $\frac{1}{2}$  SW  $\frac{1}{4}$ , S  $\frac{1}{2}$  NW  $\frac{1}{4}$  SE  $\frac{1}{4}$ , and S  $\frac{1}{2}$  SE  $\frac{1}{4}$ ;

Section 15: SE  $\frac{1}{4}$  SW  $\frac{1}{4}$ , and S  $\frac{1}{2}$  SE  $\frac{1}{4}$ ;

Section 22: N  $\frac{1}{2}$  NE  $\frac{1}{4}$ , N  $\frac{1}{2}$  SW  $\frac{1}{4}$  NE  $\frac{1}{4}$ , SE  $\frac{1}{4}$  SW  $\frac{1}{4}$  NE  $\frac{1}{4}$ , SE  $\frac{1}{4}$  NE  $\frac{1}{4}$ , E  $\frac{1}{2}$  NE  $\frac{1}{4}$  NW  $\frac{1}{4}$ , NE  $\frac{1}{4}$  SE  $\frac{1}{4}$  NW  $\frac{1}{4}$ , and E  $\frac{1}{2}$  NW  $\frac{1}{4}$  SE  $\frac{1}{4}$ ;

Section 23: N  $\frac{1}{2}$  NE  $\frac{1}{4}$ , SE  $\frac{1}{4}$  NE  $\frac{1}{4}$ , N  $\frac{1}{2}$  NW  $\frac{1}{4}$ , SE  $\frac{1}{4}$  SW  $\frac{1}{4}$ , and SE  $\frac{1}{4}$ ; Section 24: N  $\frac{1}{2}$ , SW  $\frac{1}{4}$ , and NW  $\frac{1}{4}$  SE  $\frac{1}{4}$ ;

Section 26: N  $\frac{1}{2}$  NE  $\frac{1}{4}$  NE  $\frac{1}{4}$ , SW  $\frac{1}{4}$  NE  $\frac{1}{4}$  NE  $\frac{1}{4}$ , NW  $\frac{1}{4}$  NE  $\frac{1}{4}$ , N  $\frac{1}{2}$  NW  $\frac{1}{4}$ , N  $\frac{1}{2}$  SW  $\frac{1}{4}$  NW  $\frac{1}{4}$ , SE  $\frac{1}{4}$  SW  $\frac{1}{4}$  NW  $\frac{1}{4}$ , and SE  $\frac{1}{4}$  NW  $\frac{1}{4}$ ;

Section 27: NE  $\frac{1}{4}$  NE  $\frac{1}{4}$ , and SE  $\frac{1}{4}$  NW  $\frac{1}{4}$  NE  $\frac{1}{4}$ .

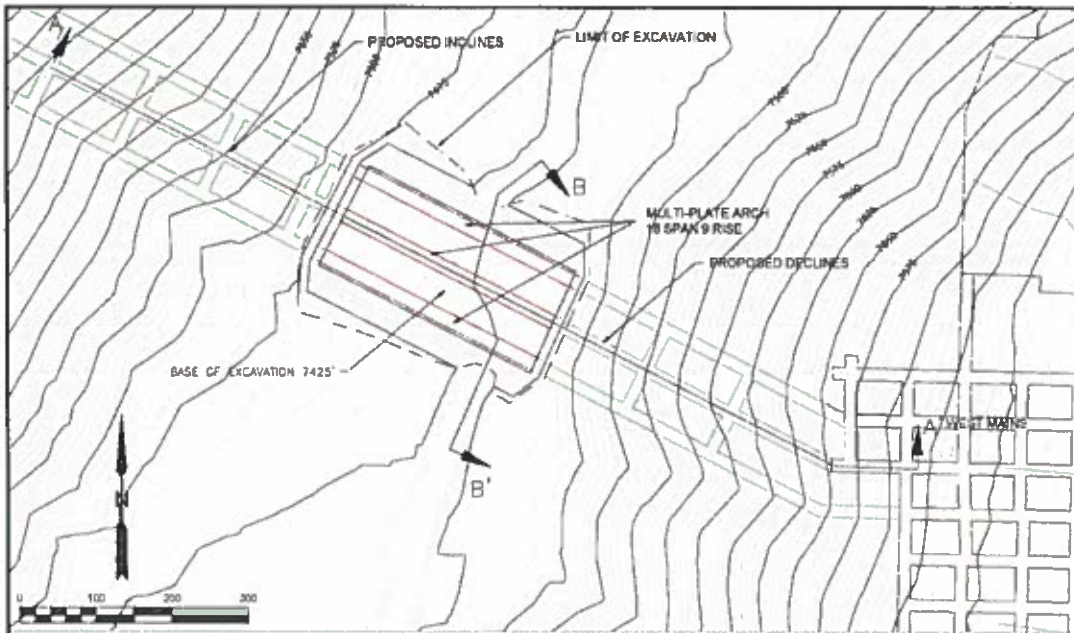
Containing approximately 2,462.07 acres.

The proposed project area consists mostly of split-estate federally owned coal, with a mixture of surface estate owners, including the Ute Mountain Ute Tribe, Devil's Canyon Trust, C & C Livestock, Shirard Colorado LTD Partnership and BLM in an area collectively referred to as the "Dunn Ranch" area.

Leasing these lands would result in a continuation of underground coal mining operations at the King II Coal Mine into the newly-leased lands. It would extend the life of the mine by approximately 22 years. The proposed action would cause approximately 20 acres of surface disturbance over the life of the mine, about half of which would be associated with the construction of a "low cover crossing"—an engineered, below-grade, steel-lined haulage way that would connect the existing mine to the LBA area prior to the start of mining (Figure 2).

Access for construction of the crossing would be located on existing improved and unimproved gravel roads starting at Highway 120 on State lands approximately three quarters of a mile east of the existing surface facilities (Figure 2). The route would follow existing roads and no road improvements would be needed such as widening or other surface disturbance outside the existing disturbance anywhere along the entire construction access route. Grading of the route within the existing road disturbance may be required in some specific areas to allow safe passage of construction vehicles.

The low cover crossing would have three entryways (an underground horizontal passage used for haulage and ventilation) and would be constructed from the west end of the existing West Mains where the current conveyor system and ventilation system can be extended into the new workings through the new underground entryways (Diagram 1).



**Diagram 1**  
**Map View of the Proposed Subsurface Low Cover Crossing**

The entryways would be constructed of corrugated steel, multi-plate arches, buried beneath the surface across the Gulch to form what would be analogous to three very large buried half culverts (**Diagram 2**).

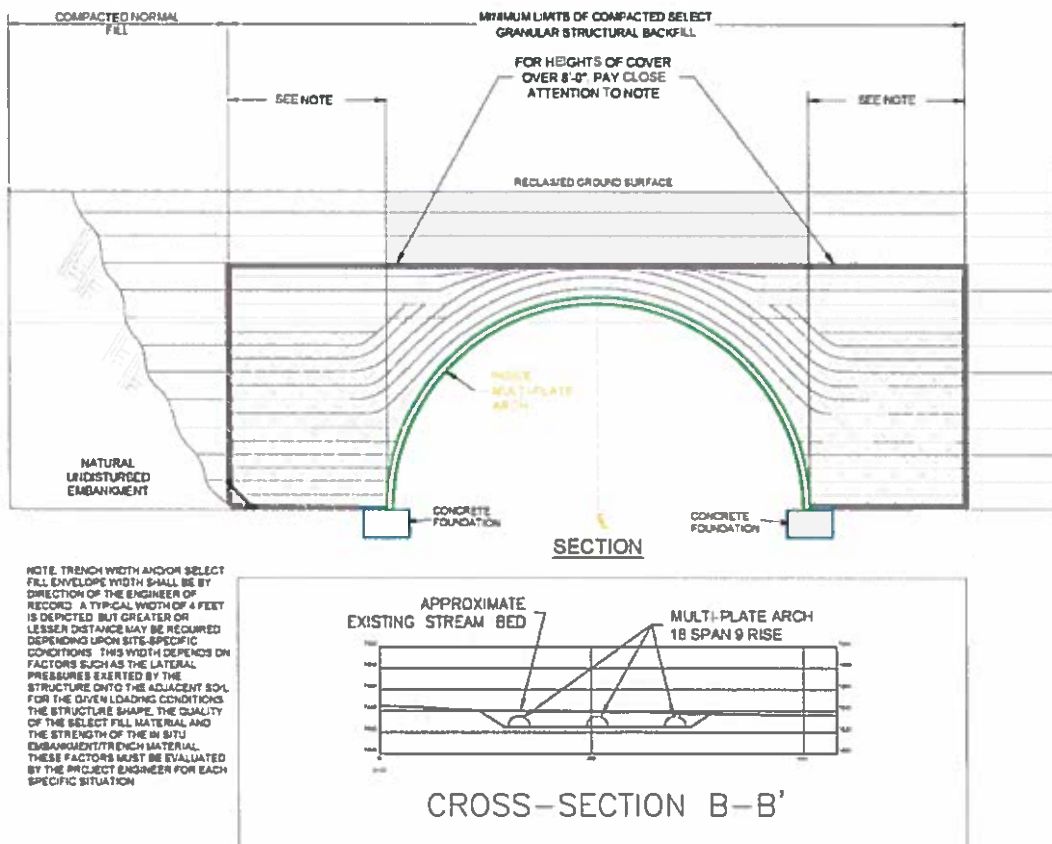


Diagram 2

**Cross Section View Perpendicular to the Proposed Subsurface Low Cover Crossing Entries**

The crossing would consist of three declines constructed from the existing workings on the east side of the Gulch down to an elevation of 7,425 feet at the edge of the valley floor, close to the contact between the valley alluvium and bedrock (**Diagram 3**).

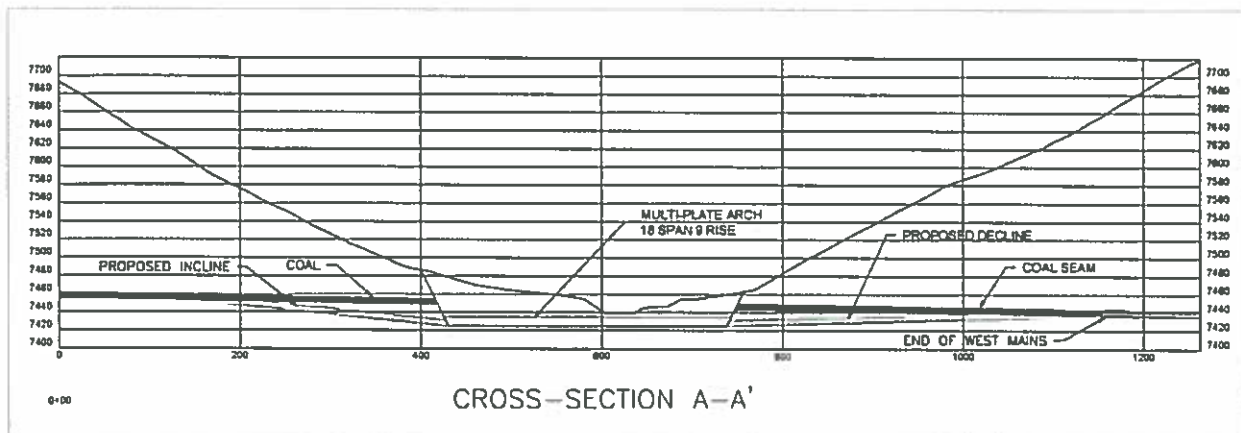


Diagram 2-3

**Cross Section View Parallel to the Proposed Subsurface Low Cover Crossing Entries**

Topsoil would first be stripped over the new crossing area and stored in a topsoil pile for reuse in reclamation. Sequentially, a trench for each entry about 40 feet deep and about 40 feet wide would then be excavated across the valley floor and would also expose competent bedrock on both ends. Excavated material from the first trench would be stored in a pile separate from the topsoil and would be used in backfilling the last trench. Once each trench is excavated, concrete would be transported to the site and foundation footers for the multi-plate arches would be installed. After foundation construction, a multi-plate corrugated steel arch, 18 feet wide and 9 feet tall, would be constructed. The arches would be extended into the bedrock at each end approximately two to three feet and then sealed using shotcrete. Once each arch is constructed, the trench would be backfilled using material excavated from the next sequential trench, the arches would be covered with excavated material, and compacted. Topsoil would then be spread over the disturbed area up to the original soil depth and surface elevation, and the stream bed would be reestablished as closely as possible to its original configuration. The reestablished stream would be lined with HDPE liner to limit water infiltration, and the liner would be covered with a bedding layer overlain with riprap to prevent erosion of the channel. Construction of the crossing would take about six months and during construction approximately 10 acres would be temporarily disturbed and then reclaimed. The construction of the proposed low cover crossing would meet the definition of *Development* found in the La Plata County Land Use Code and would be subject to the appropriate land use review process.

From the ends of the arches on the west side of the Gulch, three inclines would be developed by conventional mining methods up to where they would intersect the coal seam in the LBA area. From that point the coal would be mined utilizing the continuous miner method used in the existing King II Mine.

Surface facilities, operations and haulage at the existing King II Coal Mine would not change. Up to approximately 800,000 tons per year could be mined, though present production rates are closer to 600,000 tons per year. All coal is shipped from the mine by truck, with a maximum daily average of 120 trucks per day. At present mining rates roughly two thirds of the coal is delivered for use at cement manufacturing plants owned by GCCE in the USA and Mexico, with the remainder being sold for use on local scenic railways, home

heating and the spot market. Coal bound for Mexico and some spot market buyers is trucked to a railroad hub in Gallup, New Mexico.

Best management practices, design features and possible mitigation related to the construction within East Alkali Gulch would be developed during the OSMRE permit revision process. Such measures would include, but are not limited to, measures to protect the topsoil pile from erosion during construction, reconstruction of the gulch following construction, measures to restrict sediment flow from disturbed areas, and other measures deemed necessary by OSMRE and BLM.

As the Proposed Action would be a continuation of the mining methods, production, and delivery of coal previously analyzed in the 2017 Biological Assessment, there would be no change to the direct or indirect impacts described for the Rio Grande silvery minnow, greenback cutthroat trout, Colorado pikeminnow, razorback sucker. The previous determination of *May Affect but is not Likely to Adversely Affect* for these species does not change with the Proposed Action.

#### Additional Species Analysis

As part of the Proposed Action, there would be approximately 10 acres of surface disturbance located in East Alkali Gulch for construction of the low cover crossing. As this area occurs in riparian vegetation associated with East Alkali Gulch, it was evaluated as potential habitat for the New Mexico jumping mouse and southwestern willow flycatcher. On October 22, 2018, biologists with SME Environmental Consultants visited the site and determined that the area did not constitute habitat for either species (Report attached). Biologists from OSMRE and BLM therefore determine that the Proposed Action would have *No Effect* on these species. The SME survey report is attached to this letter. No additional ESA-listed species were identified as potentially occurring within the LBA project area when the IPAC system was initially queried on July 23, 2018 (Consultation Code: 06E24100-2018-SLI-0529), nor on February 19, 2019 when the species list was renewed.


#### Conclusion

Based on the fact that the Proposed Action represents a continuation of the existing mining with no change in impacts and the lack of suitable habitat for other ESA-listed species, OSMRE and BLM are requesting to reinstate consultation at this time to address the new proposed action. There is no change in the previous determinations for any of the listed species that may occur in the Project Area, or be impacted by the Proposed Action

If you have questions, please contact James Blair (BLM) at (970) 882-1135 or Gretchen Pinkham (OSMRE) at (303) 293-5088.

Sincerely,

  
Connie Clementson  
Field Manager  
BLM – Tres Rios Field Office

  
Mychal Yellowman  
Manager, Indian Program Branch  
OSMRE – Western Region