



United States Department of the Interior

OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

Western Region Office
Denver Federal Center, Building 41
Lakewood, CO 80225-0065



C-1362

September 15, 2022

Jason Musick
State of Colorado
Division of Reclamation, Mining and Safety
1313 Sherman St., Room 215
Denver, CO 80203

Re: Technical Revision No. 147, Construction of 81 Future B-Seam Mine Ventilation Boreholes, Pads, and Roads, Panels LWB26 through LWB29; Mountain Coal Company (MCC), LLC, West Elk Mine, Permit No. C-1980-007.

Dear Mr. Musick,

This letter documents the Office of Surface Mining Reclamation and Enforcement's (OSMRE) determination of whether the Technical Revision No. 147 (TR-147) for MCC's Federal Coal Lease C-1980-007 at the underground West Elk Mine constitutes a mining plan modification. Mining plans and mining plan modifications require approval by the Assistant Secretary of Land and Minerals Management (ASLM) under the Mineral Leasing Act of 1920, 30 U.S.C. § 181, et seq. before coal mining can occur on Federal lands. See also 30 CFR Part 746.

As described in the permit revision submitted to the Colorado Division of Reclamation, Mining and Safety (DRMS), MCC proposes to construct 81 short-term mine ventilation boreholes (MVBs) together with associated drill pads and access roads above future B Seam longwall panels LWB26 through LWB29 to ventilate combustible gases such as methane. TR-147 proposes to disturb 75 surface acres to construct nine miles of new access roads and pads to support the installation of 81 MVBs required to mine B seam coal in Federal Coal Leases C-1362, COC-56447, and COC-67232¹. No new permit acreage is proposed.

The OSMRE has considered the criteria described in the Federal regulations at 30 CFR 746.18(d)(1) through (d)(6) defining when a permit revision constitutes a mining plan modification:

1. *Any change in the mining plan which would affect the conditions of its approval pursuant to Federal law or regulation other than the SMCRA.*

The ventilation of mine gases (including methane) in support of mining the B seam of Federal Coal Leases C-1362, COC-56447, and COC-67232 within the TR-147 action area was not considered in prior environmental analyses conducted in accordance with the National Environmental Policy Act (NEPA) and would affect the conditions of the mining plan approval pursuant to Federal law or regulations other than SMCRA.

¹ Sections 33, 34, and 35 of Township 13S, Range 90W, and Sections 2 and 3 of Township 14S, Range 90W

2. *Any change which would adversely affect the level of protection afforded any land, facility or place designated unsuitable for mining.*

TR-147 does not propose any change that would affect the level of protection to land, facilities or places designated unsuitable for mining.

3. *Any change in the location or amount of coal to be mined, except where such change is the result of: (i) A minor change in the amount of coal available for mining from the amount estimated; or (ii) An incidental boundary change.*

TR-147 does not propose any change in the location or amount of coal to be mined.

4. *Any change which would extend coal mining and reclamation operations onto leased Federal coal lands for the first time*

TR-147 would not extend mining and reclamation activities onto leased Federal coal for the first time. The mine has received prior ASLM mining plan and mining plan modification approvals² for the TR-147 action area.

5. *Any change which requires the preparation of an environmental impact statement under the National Environmental Policy Act of 1969, 42 U.S.C. 4321 et seq.*

TR-147 is not a major action normally requiring the preparation of an Environmental Impact Statement³.

6. *Any change in the mining operations and reclamation plan that would result in a change in the postmining land use where the surface is federally owned.*

TR-147 does not propose a change to the mining operations and reclamation plan that would result in a change to the post mining land use of federally-owned surface land.

In summary, a mining plan modification approval from the ASLM is required for TR-147. The OSMRE's decision is based upon consideration of MCC's permit revision (submitted to DRMS) and the requirements at 30 CFR Parts 740 and 746.

On June 8, 2022, OSMRE consulted with the Bureau of Land Management (BLM) and U.S. Forest Service (USFS) about this determination. The BLM agreed with OSMRE's finding that TR-147 constitutes a mining plan modification requiring approval by the ASLM on September 12, 2022. The USFS agreed with OSMRE's finding that TR-147 constitutes a mining plan modification requiring approval by the ASLM on September 15, 2022. The OSMRE's decision does not relieve DRMS from coordinating its review and approval of this action and securing approval from other Federal agencies for compliance.

² September 27, 1985; December 22, 1989; April 23, 1996; June 30, 2008; July 31, 2008; and January 15, 2009.

³ Major actions requiring the preparation of an EIS are described in the DOI Department Manual, Managing the NEPA Process – Office of Surface Mining (516 DM 13).

Sincerely,

Marcelo Calle, Manager
Program Support Division

cc: Leigh Simmons, DRMS
Suzanne Copping – BLM Uncompahgre Field Office
Daniel Gray – USFS Paonia Ranger District
Nicole Poulos – MCC Energy, LLC
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