



U.S. Department of the Interior  
Bureau of Land Management

# NTEC Land Use Authorization (LUA) MTM-74913 and Land Use Permit (LUP) MTM-96659 Amendments for Spring Creek Mine

DOI-BLM-MT-C020-2024-0036-EA

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Eastern Montana Dakotas District  
Miles City Field Office  
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# 1 Introduction

## 1.0 Summary of Proposed Project

Under the authority of the Federal Land Policy and Management (FLPMA) Act, of 1976 (90 Stat 2743, 2762; 43 U.S.C. 1732) of June 14, 1926, BLM issued the original Land Use Authorization (LUA), MTM-74913 in April 1992, to Spring Creek Coal Company for the purpose of overburden and haul roads related to federal and State coal leases at the Spring Creek Mine. A LUA is used to authorize uses of public lands involving substantial construction, development or land improvement and the investment of large amounts of capital which are be amortized over time. Land Use Authorization MTM-74913 has been assigned and amended to add and relinquish BLM lands over the years for mining related purposes. The LUA was renewed in 2010 and expires on April 22, 2032. The LUA and Land Use Permit (LUP) were assigned to Navajo Transitional Energy Company (NTEC) from Spring Creek, Coal, LLC. in September 2021.

In addition, under the same authorities, in April 2007 BLM issued the original LUP, MTM-96659 to Spring Creek Coal Company for environmental monitoring to meet Montana Department of Environmental Quality (DEQ) monitoring requirements at the mine. The LUP has been assigned and amended to add and relinquish BLM lands over the years for monitoring purposes. There are no surface disturbing activities authorized with a LUP. It is issued for a 3-year term and is automatically renewable with payment of annual rental. The existing LUP was renewed in December 2021 and expires on December 31, 2024.

On February 3, 2023, NTEC submitted a 2920 application and plan (43 CFR 2920) to amend their existing land use authorization (LUA) and land use permit (LUP). The proposed amendment would amend the LUA by adding approximately 67 acres. The LUP would remove 125 acres that are no longer needed for monitoring purposes and add an additional 160 acres to their permit. Both of these authorizations are needed to continue coal recovery efforts on existing Federal coal lease MTM-110693 and State coal lease C-1088-05 at Spring Creek Mine. No additional coal mining is being authorized on federal land with the amendments.

## 1.1 Purpose and Need

The purpose and need is to respond to NTEC's application to amend existing land use authorization MTM-74913 and land use permit MTM-96659 for continuation of mining coal on existing Federal and State coal leases and environmental monitoring at the Spring Creek Coal mine.

## 1.2 Decision to be Made

The BLM must decide whether or not to amend NTEC's existing land use authorization MTM-74913 and land use permit MTM-96659 to allow for continuation of mining of existing federal coal lease MTM-110693 and State coal lease C-1088-05 and monitoring operations at the Spring Creek Coal mine, respectively; and if so, under what terms and conditions to comply with the 2015 Miles City Field Office Approved Resource Management Plan (ARMP), as amended.

## 1.3 Land Use Plan Conformance

The LUA and LUP amendments would be consistent with the 2015 MCFO RMP, as amended.

MD LR2: Major and minor ROWs and other realty-related land use authorizations (including testing for pilots for carbon geo-sequestration, see the Lands and Realty-renewable Energy Appendix in the Miles City Proposed RMP/EIS) are excluded on approximately 83,659 surface acres (3%) of the planning area. Major ROWs area avoided on 2,222,701 surface acres (81%) and Minor ROWs and other realty-related land use authorizations are avoided on 858, 073 surface acres (31%). On the remaining surface acres in the planning area. Major ROWs are Page 5 of 27 allowed on 445,170 surface acres (16%) and Minor ROWs are allowed on 1, 809,798 surface acres (66%).

#### 1.4 Relationship to Statutes, Regulations, Other NEPA Documents

- National Environmental Policy Act (NEPA) of 1969 (P. L. 91-190; 83 Stat. 852; 42 U.S.C. 4321 et seq.)
- Federal Land Policy and Management Act (FLPMA) of 1976, as amended (P. L. 94-579; 90 Stat. 2743; 43 U.S.C. 1701 et seq.)
- Endangered Species Act of 1973 (ESA), as amended (P.L. 93-205; 87 Stat. 884; 16 U.S.C. 1531 et seq.)
- National Historic Preservation Act of 1966 (NHPA), as amended; Section 106 (P.L. 89-665; 80 Stat. 915; 16 U.S.C. 470 et seq.)
- BLM 2015 Miles City Field Office Final EIS/Proposed RMP

#### 1.5 Issues Identified for Analysis

1.5.1 *Issue 1 – How would the proposed amendment to the existing land use authorization MTM-74913 and land use permit MTM-96659 affect vegetation and livestock grazing on the tracts?*

1.5.2 *Issue 2 –How would the proposed amendment to the existing land use authorization MTM-74913 and land use permit MTM-96659 affect the Resource Recovery and Protection Plan on the existing mining operations from federal and State coal leases?*

#### 1.6 Issues Identified but Eliminated from Further Analysis

There are resources that are not present in the analysis area or would not be impacted to a degree that require detailed analysis. A complete list of resources considered but dismissed from further analysis can be found in Appendix B.

## 2 Alternatives

### 2.0 Alternative 1 - No Action Alternative

Under Alternative 1, the BLM would not amend NTEC's existing LUA MTM-74913 and LUP MTM-96659. The existing LUA and LUP would continue to be used by NTEC under the previously approved stipulations and terms/conditions until April 22, 2032, and December 31, 2024, respectively.

Mining on existing federal and State coal leases would continue; however, mining operations would be constrained to avoid disturbance on the 67 acres of LUA lands analyzed in Alternative 2. The existing LUA acreage would remain at 277.12 acres without the amendment. Without the use of the additional BLM lands located in T 8S., R 39E., Section 13, NE1/4SE1/4 that portion lying westerly of the west right-of-way boundary of MTM-37463 and in Section 35, W1/2NW1/4NE1/4SE1/4, SW1/4NE1/4SE1/4, W1/2SE1/4SE1/4 and SE1/4SE1/4SE1/4 to their existing LUA, NTEC would not be able to mine 1.35 million tons from Federal coal lease MTM-110693 and 2.65 million tons from State coal lease C-1088-05. NTEC would submit a modification to the Resource Recovery and Protection Plan (R2P2)<sup>1</sup> to remove the 1.35 million tons of Federal coal associated with the use of the 22-acre tract.

In addition, NTEC would continue environmental monitoring on the existing LUP lands. The LUP acreage would remain at 320 acres without the amendment. Without the additional BLM lands located in T 9S., R40E., Section 7, N1/2 NE1/4, N1/2S1/2NE1/4, N1/2N1/2S1/2NE1/4, Section 8, N1/2SW1/4NW1/4 and T8S., R39E., Section 35, W1/2NW1/4NE1/4SE1/4, SE1/4SE1/4SE1/4, W1/2SE1/4SE1/4, SW1/4NE1/4SE1/4, NTEC would not be able to conduct additional environmental monitoring.

### Alternative 2 - Proposed Action Alternative

Under Alternative 2, the BLM would amend LUA MTM-74913 and LUP MTM-96659. The LUA amendment would consist of adding 67 acres in following location: T 8S., R 39E., Section 13, NE1/4SE1/4 (23 acres) that portion lying westerly of the west right-of-way boundary of MTM-37463, and in Section 35, W1/2NW1/4NE1/4SE1/4, SW1/4NE1/4SE1/4, W1/2SE1/4SE1/4 and SE1/4SE1/4SE1/4 (44 acres). The total BLM acreage on the amended LUA would be 344.12 acres.

The 67 acres would be offered noncompetitively to NTEC as an amendment to their existing LUA. These lands would authorize the use of BLM land for surface disturbance to fully recover coal reserves from existing federal coal lease MTM-110693 in accordance with the R2P2 and State coal lease C-1088-05. These lands would be used for layback disturbance, facilities and road disturbance, and incidental use area. Layback is a critical component in the coal strip mine recovery which consists of a series of catch benches cut into the mine highwall to provide safety and stability as mining progresses into an area. The land adjacent to the coal leases needs to be disturbed during normal mining operations to completely and safely remove the coal within the lease boundary.

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<sup>1</sup> The R2P2 provides information concerning the mining methods, the mine development plan, and the mining sequence. BLM is required to ensure compliance with a statutory requirement for maximum economic recovery of the federal coal with due respect to conservation of other resources.

The LUP amendment would include adding 160 acres in the following location: T 9S., R40E., Section 7, N1/2 NE1/4, N1/2S1/2NE1/4, N1/2N1/2S1/2NE1/4 and Section 8, N1/2SW1/4NW1/4. NTEC is also requesting to remove 80 acres from the LUP located in T8S., R39E., Section 20, S1/2NE1/4 and remove 45 acres from LUP in Section 35, T8S., R39E., to the LUA.

The total BLM acreage on the LUP would be amended to 302 acres. These lands would not have surface disturbing activities take place. They are needed to allow NTEC to continue environmental monitoring on two existing water wells and wildlife studies outside of their permit boundary. In addition, the LUP would be renewed for another 3 years, expiring on December 31, 2024.

The proposed LUA and LUP amendments would be approved pursuant to Section 302 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2743, 2762; 43 U.S.C., 1732), would be for surface use only of the public land and would be subject to the terms and conditions in 43 CFR 2920, the mitigations set forth in the application/plan of development, the stipulations and special conditions of the original lease and permit and additional stipulations identified for this amendment and listed in Appendix E. The LUA and LUP amendment would be subject to cost recovery and rental as provided for at 43 CFR 2920.6 and 2920.8. The LUA and LUP would be monitored for use before renewal and closure.

## **3 Affected Environment and Environmental Consequences**

### **3.0 General Setting**

The Spring Creek Coal Mine is an operating surface coal mine located in southeast Big Horn County, Montana, approximately 32 miles north of Sheridan, Wyoming. It currently produces and ships approximately 9-15 million tons of coal from five Federal Coal leases, four State Coal leases and a single fee/private lease, all permitted under MT DEQ Permit #C 1979012.

Sheridan, Ranchester, and Dayton, Wyoming and Busby and Lame Deer, Montana are the only communities of appreciable size within a radius of about 50 miles. The Spring Creek Mine lies northwest of the Tongue River Reservoir and northwest of the Decker Coal Mine which is undergoing mine reclamation.

### **3.1 Reasonably Foreseeable Environmental Trends and Planned Actions**

The 4 million short tons of coal associated with the 67-acre tracts was determined by NTEC based on mining operations at the mine.

NTEC has submitted additional federal coal leasing amendments and modifications, however, due to current litigation and court ordered lawsuit, Western Organization of Resource Councils, et al. v. BLM; CV 00076-GF-BMM; 8/3/2022, those applications have been put on hold. A Supplemental EIS to the 2015 Miles City Field Office RMP is currently in progress of providing additional land use planning level analysis that considers no-leasing and limited coal leasing alternatives; to disclose the public health impacts, both climate and non-climate, of burning fossil fuels (coal, oil, and gas); and to complete new coal screens in accordance with 43 CFR 3420.1-4 to determine the lands to be made available for further consideration for coal leasing in the planning area.

## 3.2 Resource Issue 1-Vegetation

### 3.2.1 *Affected Environment*

The BLM lands proposed to be added to the existing LUA and LUP are classified as clay-based and shallow ecological sites (Soil Survey 2024). The project area is an upland community dominated by grasses but includes shrubs and trees. Dominant upland species include bluebunch wheatgrass (*Pseudoroegneria spicata*), western wheatgrass (*Pascopyrum smithii*), green needlegrass (*Nassella viridula*), blue grama (*Bouteloua gracilis*), needle and thread (*Hesperostipa comata*), prickly pear cactus (*Opuntia spp.*), Wyoming big sagebrush (*Artemisia tridentata*), Rocky Mountain juniper (*Juniperus scopulorum*). Differences in dominant species within the project area vary with aspect and topography.

The vegetation has also been influenced by two BLM grazing allotments, #10022 and #10091, assigned to NTEC and ongoing coal mine reclamation. Due to mining activities resulting in vegetation loss, no grazing activities occur within the mine permit boundary. All AUMs (Animal Unit Months) associated with the public domain parcels within the mine permit boundary are held in suspense. There are currently a total of 103 AUMs suspended in the Scrutchfield Allotment #10091. The CX Ranch Allotment #10022 has a total of 75 AUMs suspended within the mine permit boundary.

### 3.2.2 *Environmental Effects—No Action Alternative*

Under Alternative 1, the proposed amendment to include additional BLM lands to the existing LUA and LUP would not occur. The current AUMs suspension would not change. This alternative would result in no new surface disturbing activities on the proposed BLM lands; therefore, no vegetation loss. Surface disturbance and reclamation adjacent to the proposed LUA tract would occur as determined by Montana DEQ Permit #C 1979012.

### 3.2.3 *Environmental Effects—Alternative 2*

Under Alternative 2, adding 67 acres of BLM lands to the existing LUA would result in approximately 37 acres of 100% surface disturbance (Table 1). The other 30 acres of the LUA would have minimal disturbance as it would be used for roads, buffer areas, etc. (See Figure 2). All AUMs within the mine permit boundary are currently in suspense. The number of AUMs suspended in grazing allotment #10091 (103 AUMs) and #10022 (75 AUMs) would remain the same. Adding 160 acres to the existing LUP would not result in surface disturbance because LUPs do not allow for surface disturbing activities; therefore, only the LUA would result in surface disturbance. No AUMs will be suspended for LUP acres outside of the mine permit boundary.

To facilitate and expedite reclamation in the area, the LUA POD identifies reclamation efforts on the LUA lands to meet the reclamation requirements described in the approved Montana DEQ mine permit #C1979012. This would allow permit area to be fully reclaimed and blend in with the surrounding topography and vegetation.

Existing LUA stipulations listed in Appendix E would apply to new BLM lands added to the LUA. To ensure reclamation efforts are met on the newly added BLM lands, the BLM would add

a new stipulation requiring reclamation on the 67 acres to backfill to a post-mining topography, scarify the surface, topsoil replacement, and reseeded with a BLM approved native seed mix. The new stipulation would not apply to the current LUA lands due those being under prior approval.

The existing LUP stipulations listed in Appendix F would apply to new BLM lands added to the LUP. Since a LUP does not allow surface disturbance, no new stipulations would be added.

### 3.3 Resource Issue 2

#### 3.3.1 *Affected Environment*

The BLM lands proposed for the LUA are located within Montana DEQ coal permit #C197012, adjacent to federal coal lease MTM-110693, undergoing mining. NTEC has requested the LUA amendment to fully recover federal coal as required in the approved federal R2P2. Depending upon the overburden depth to coal, this disturbance may be up to 1150 feet from the lease boundary beginning at the toe of coal and ending beyond the crest of the highwall behind the berm. The R2P2 currently accepts mining of the 4 million short tons of federal and State coal associated with the use of the 67-acres.

Layback is a critical component in coal strip mine reserve recovery and consists of a series of benches cut into the mine highwall which serve to catch falling debris and to stabilize the highwall as mining progresses into an area. The highwall and associated benches move forward as coal is removed and the overburden material removed in the process is used to fill the resultant pit as “Dragline Spoil” per the following cross-sectional diagram (Figure 1, Appendix F). During mine reclamation the dragline spoil is graded to a post mine topography approved under the State Mine Permit and topsoil is then applied to complete final approved topography.

As depicted on Figure 1, (Appendix F) the lands adjacent to a coal lease need to be disturbed during normal mining operations to completely and safely remove the coal within the lease boundary. Depending upon the overburden depth to coal, this disturbance may be up to 1100 feet from the lease boundary beginning at the toe of coal and ending beyond the crest of the highwall behind a berm.

Without the layback areas proposed under this request, mineable Federal Coal will be lost. This proposal assumes that the Anderson-Dietz coal seam thickness mined at Spring Creek will remain consistent at 70-80’ of total thickness.

Preservation of topsoil and subsoil are critical requirements of reclamation plans associated with coal mining permits granted by the State of Montana. As part of this proposal, both the topsoil and subsoil will be separately stockpiled, stabilized, and seeded with an approved native seed mix after being stripped from the federal and state coal leases that are proposed for mining. Overburden removed from the pit is also proposed for storage so that the requisite postmining topography can be readily constructed in the immediate area.



### *3.3.2 Environmental Effects—No Action Alternative*

Under this alternative, NTEC would not have the 67 acres of BLM lands to use for ongoing mining operations for federal coal lease MTM-100693 and State coal lease C-1088-05. Not being able to use lands adjacent to the coal lease during mining operations would result in unsafe mining operations. Therefore, NTEC would be required to modify their mining operations to ensure coal is mined in a safe manner. To do this, layback bench cuts into the mine highwall would be reduced resulting in less federal and state coal being mined from the existing coal lease and the R2P2 not being met. NTEC would need to modify the federally approved R2P2 to reduce the amount of planned recoverable coal by 1.35 million tons of federal coal and 2.65 million tons of state coal from existing federal and state coal leases.

The loss of federal coal production would reduce the amount of mineral revenues generated, which is calculated based on production, price of Powder River Basin Coal (\$13.95 per ton; EIA, 2024) and federal royalty rate of 12.5 percent. If NTEC is unable to safely mine the 1.35 million tons of federal coal, the associated royalty loss to the federal government would be \$2.35 million. Forty-nine percent of federal mineral royalties are disbursed back to Montana, where 25 percent of it is further allocated to local governments. Montana also charges a severance tax on all minerals extracted in the state, so there would be additional revenue losses beyond federal royalties. The state revenues are distributed to statewide funds supporting general operations of Montana's government and government services, including K–12 education and local economic development programs.

### *3.3.3 Environmental Effects—Alternative 2*

Under this alternative, NTEC would have the additional 67 acres of BLM lands for use in ongoing mining operations for federal coal lease MTM-100693 and State coal lease C-1088-05. These lands would be used for layback disturbance, facilities/road disturbance and incidental use area. The use of these BLM lands would allow for safe mining operations to completely extract the federal coal as required in the R2P2. This would result in NTEC meeting its commitment in the R2P2 to recover in the 4 million tons of federal and state coal being mined. The federal coal production would generate \$2.35 million in royalties paid to the federal government with 49 percent of the royalties being sent to the State of Montana.

Under this alternative, NTEC would have use of the 175 acres in the LUP for additional monitoring around the Spring Creek Coal mine. The LUP does not restrict mining of existing federal and State coal leases. It would allow NTEC to meet Montana DEQ monitoring requirements.

## **4 Consultation and Coordination**

### **4.0 Summary of Consultation and Coordination**

Fifteen consulting Tribes were invited to participate in a 2-day meeting, June 7 and 8, 2017 in Sheridan, Wyoming. Seven of the fifteen Tribes participated in Tribal Consultation and field inventories in October 2018. The Tribes had an opportunity to review the draft cultural report and provide input and comments. On December 14, 2018, the final report was submitted to the Montana State Historic Preservation Office (SHPO) and shared with all Tribes. On December 28, 2018, the BLM received concurrence from MT SHPO.

### **4.1 Summary of Public Participation**

A Notice of Realty Action (NORA) was published in the Federal Register for 45-days, February 23 to April 8, 2024. The Notice notified the public of the proposed land use lease amendment to include additional BLM lands. The comment period was also posted on the BLM's ePlanning project webpage and published in two newspapers for three consecutive weeks.

## **5 List of Appendices**

Appendix A—List of Preparers

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Appendix C—Acronyms and Abbreviations

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## Appendix A: List of Preparers

<b>Name</b>	<b>Title</b>	<b>Resource Area</b>
<b>Beth Klempel</b>	Assistant Field Manager	Project Lead/Lands and Realty
<b>Courtney Carlson</b>	Archeologist	Cultural, Paleo
<b>Dawn Doran</b>	Rangeland Management Specialist	Grazing, Vegetation
<b>John Zeisse</b>	Geologist	Mining/Geology
<b>Mike Kelly</b>	Wildlife Biologist	Wildlife
<b>Mark Peterson</b>	Air Specialist	Air Quality/Greenhouse Gases
<b>Amy Stillings</b>	Socioeconomic Specialist	Socioeconomics, Environmental Justice
<b>Josh Buckmaster</b>	Soil Scientist	Soils

## Appendix B: Table of Issues and Resources Considered

Determination*	Issue	Rationale for Determination
NP	Access	The proposed BLM lands do not have public access. Access is through the Spring Creek Coal mine and public entry is regulated in accordance with Permit requirements.
NI	Air Quality/GHG	<p>The proposed action is not anticipated to cause significant impacts to existing ambient air quality and resources. Any ongoing or additional contributions to regulated pollutants to ambient air by this action would be negligible.</p> <p>In addition, the Spring Creek Coal Mine has a State air quality permit which regulates emissions from mine activities. The Montana Department of Environmental Quality (DEQ) issued Montana Air Quality Permit (MAQP) #1120-12 for the mine with various operational limitations as well as testing, monitoring, and reporting requirements to ensure compliance with state and federal ambient air quality standards. According to MAQP #1120-12, a cumulative air dispersion modeling demonstration (that included the nearby Decker Coal Mine) indicated the mine would not likely cause or contribute to a violation of the federal or state ambient air quality standard at the maximum permitted coal production of 30 million tons per rolling 12- month period. Similarly, the 2023 Draft MCFO SEIS and NDFO RMP/EIS utilized photochemical grid modeling (PGM) modelling for the future year circa 2028. Overall, the PGM modeling results indicated that NAAQS or state ambient air quality standards would not be exceeded from the cumulative total of all sources. In addition, the project would not contribute to an overall increase in greenhouse gas emissions for the mine. A further discussion of climate change science and predicted impacts, as well as the reasonably foreseeable and cumulative GHG emissions are included in the BLM Specialist Report on Annual Greenhouse Gas Emissions and Climate Trends (BLM 2023).</p>

<b>Determination*</b>	<b>Issue</b>	<b>Rationale for Determination</b>
NP	Areas of Critical Environmental Concern	The proposed BLM lands are not within or adjacent to an ACEC.
NP	Backcountry Conservation Areas	The proposed BLM lands are not within a BCA.
NI	Climate	The proposed BLM lands would allow additional monitoring of mining activities and facilitate ongoing mining on existing federal coal leases. Adding additional BLM lands to the permit and lease would not have additional contributions to climate change.
PI	Cultural Resources	Three archaeological sites (24BH3387, 24BH3396, 24BH3397) would be impacted and destroyed by the portion of the project area being added to the LUL. These sites are not historic properties. Six archaeological sites (24BH2016, 24BH3086, 24BH3088, 24BH3089, 24BH3693, 24BH3694), of which five are historic properties, are within the portion of the project area that would be added to the LUP. No ground disturbance is planned within the boundaries of the historic properties. One historic property (24BH3669) is within the area that would be removed from the LUP. No ground disturbance is planned in this portion of the project area. As the current proposed action would not entail ground disturbance within or adjacent to historic properties, there would be no adverse effect to historic properties as a result of authorizing the current proposed action. See MCFO Cultural Resources Project No. MT-020-24-067.
NI	Environmental Justice (EJ)	BLM identified EJ populations (low income; Native American) in Big Horn County, MT (Headwaters, 2024). The Crow and Northern Cheyenne Indian Reservations are nearby. The proposed BLM lands are within the previously permitted coal mine boundary and not currently being utilized by the public. The proposed decision relates to proposed adjustments to the LUP and LUA to support the continuation of mining coal on previously approved Federal and State coal leases thus the area of analysis is limited (see Chapter 1.) Any impacts generated from this action are more likely to impact an EJ population given the location, but analysis of

<b>Determination*</b>	<b>Issue</b>	<b>Rationale for Determination</b>
		resources (e.g., air quality; water) does not indicate major impacts given requirements of state permits...
NP	Fire Management	The proposal would not affect fire management.
NP	Fish Habitat	The proposed BLM lands do not contain fish habitat.
NP	Floodplains	There are no floodplains on the proposed BLM lands. Any actions on floodplains within the mine permit boundary are regulated by the holder's State permit.
	Forests and Rangelands	The proposed BLM lands consist of native rangelands. The 160 acres proposed for the LUP would not be disturbed. The 67 acres for the LUA would be disturbed; however, these lands would be required to meet LUA stipulation and be reclaimed to pre-existing conditions in accordance to BLM requirements.
NP	Forestry Resources and Woodland Products	The proposed BLM lands do not contain forested lands or woodlands products.
NI	Human health and safety concerns	The Spring Creek Coal mine restricts public entry to the mine.
NI	Invasive, Non-native Species	Per the existing stipulations on the LUA and LUP, the holder is responsible for treating all noxious weeds.
NI	Lands and Realty	The proposed BLM lands would amend existing LUA and LUPs. Changes to existing ROWs or realty permits are not proposed.
NP	Lands with Wilderness Characteristics	The proposed BLM lands do not contain or are adjacent to LWCs.
NI	Livestock Grazing Management	The proposed action would not affect the current livestock grazing schedule. The proposed BLM lands are part of grazing allotments #10022 held by NTEC.
PI	Minerals-Solid	The proposed LUA lands is needed to mine federal coal from existing coal lease MTM-110693 and State coal lease C-1088-05. If the proposed LUA lands are not obtained the existing federal coal lease could result in less federal coal being mined and therefore not meeting the requirements of the R2P2.
NI	Migratory birds	The proposed LUA lands are located within the existing permit boundary, surrounding private lands are already disturbed due to mining activities on an existing coal lease. Any

Determination*	Issue	Rationale for Determination
		<p>disturbance on the proposed BLM LUA lands would be reclaimed to pre-existing condition.</p> <p>No surface disturbance is authorized on BLM LUA lands from April 15 through July 15 to avoid disturbance to ground nesting and migratory birds.</p> <p>The proposed LUP lands are located outside the permit boundary; however, no surface-disturbing activities are proposed for these lands.</p>
PI	Native American Religious Concerns	BLM has consulted with multiple tribes multiple times throughout the lifecycle and permitting stages of the mine.
NI	Noise Resources	There are no blasting activities associated with the proposed BLM lands. Any activities are regulated by the Spring Creek Coal Mine State permit and are not expected to change.
NI	Paleontological Resources	No known paleontological localities within the portion of the current project area that would be added to the LUA. One paleontological resource within the portion of the current project area that would be added to the LUP. The current project area is within the Tongue River Member of the Fort Union Formation (PFYC-4), the Wasatch Formation (PFYC-3), and clinker (PFYC-2).
NI	Recreation Resources	The proposed BLM lands are publicly inaccessible. There are not developed recreation sites on the proposed BLM lands.
NI	Sage Grouse Habitat	<p>The proposed LUA BLM lands are located within both General and Restoration Habitat Management Areas as identified in the 2015 ARMP. The proposed LUA lands are located within the permit boundary.</p> <p>No surface disturbing activities are authorized on the proposed LUA lands from March 15 through July 15 to minimize impacts to Greater Sage-grouse.</p> <p>The proposed LUP BLM lands are located within Restoration Habitat Management Area as identified in the 2015 ARMP. The proposed LUP lands are located outside of the mining permit boundary, however no surface disturbing activities are proposed or authorized for these lands.</p>
NI	Socioeconomics	Impact on revenue is discussed within Issue 2 analysis. According to Mine Safety and Health



Determination*	Issue	Rationale for Determination
		Administration (2024), Spring Creek Mine employees 249 employees and coal mining traditionally provides higher wages. Under the no action alternative and its resulting less coal production, NTEC may need to reduce employment.
NI	Soils	The 160 acres proposed for the LUP would not be disturbed. The 67 acres for the proposed LUA would be disturbed; however, these lands would be required to meet the LUA stipulation which include flood control structures and be reclaimed to pre-existing conditions in accordance to BLM reclamation requirements found in the MCFO RMP Appendix N.
NP	Threatened, Endangered or Candidate Plant or Animal Species	There are no T&E plant or animal species in the project area.
PI	Vegetation	No vegetation would be disturbed for the proposed LUP, as it is non-surface disturbing. Approximately 67 acres of vegetation would be disturbed as part of proposed LUA land activities.
NI	Visual Resources	The parcels are located within a VRM Class III. There would be no surface disturbance on the proposed LUP lands, however there would be a small area disturbed on the proposed LUA lands. The objective of a Class III is “Management activities may attract attention but should not dominate the view of the casual observer. Changes should repeat the basic elements found in the predominant natural features of the characteristic landscape”. The surrounding landscape is currently being mined; therefore, this disturbance would not dominate the viewshed.
NI	Wastes, Hazardous or Solid	This is regulated by the holder’s State permit. No wastes or hazards would be used on BLM lands proposed for the proposed LUP or LUA.
NI	Water	Ditching, sumps, and other minor alternative sediment control structures may be used periodically within the stripped layback area to help control flow of surface water for the proposed LUA land and is regulated by the State permit. The

<b>Determination*</b>	<b>Issue</b>	<b>Rationale for Determination</b>
		proposed LUP lands would have no surface disturbance.
NP	Wetlands/Riparian Zones	The proposed BLM lands do not contain wetlands/riparian areas.
NP	Wild Horses and Burros	There are no wild horse and burros present in the project area.
NP	Wild and Scenic Rivers	There are no W&S rivers in the project area.
NP	Wilderness and Wilderness Study Areas	There are no WSAs in the project area.
NI	Wildlife	The proposed LUA lands are located within the existing permit boundary, surrounding private lands are already disturbed due to mining activities on an existing coal lease. Any disturbance on the proposed BLM LUA lands would be reclaimed to pre-existing condition. The proposed LUP lands are located outside of the permit boundary; however, no surface-disturbing activities are proposed.

\*NP = not present in the area impacted by the proposed or alternative actions.

\*NI = present, but not affected to a degree that detailed analysis is required.

\*PI = present and may be impacted. Will be analyzed in affected environment and environmental effects. For consistency, the term 'effects' is used throughout the EA, but we use the term 'impacts' just in this table. (NOTE: PI does not necessarily mean effects are likely to be significant, only that there are effects to this issue, resource or use. Significance will be determined through analysis and documented in a Finding of No Significant Impact or Environmental Impact Statement.)

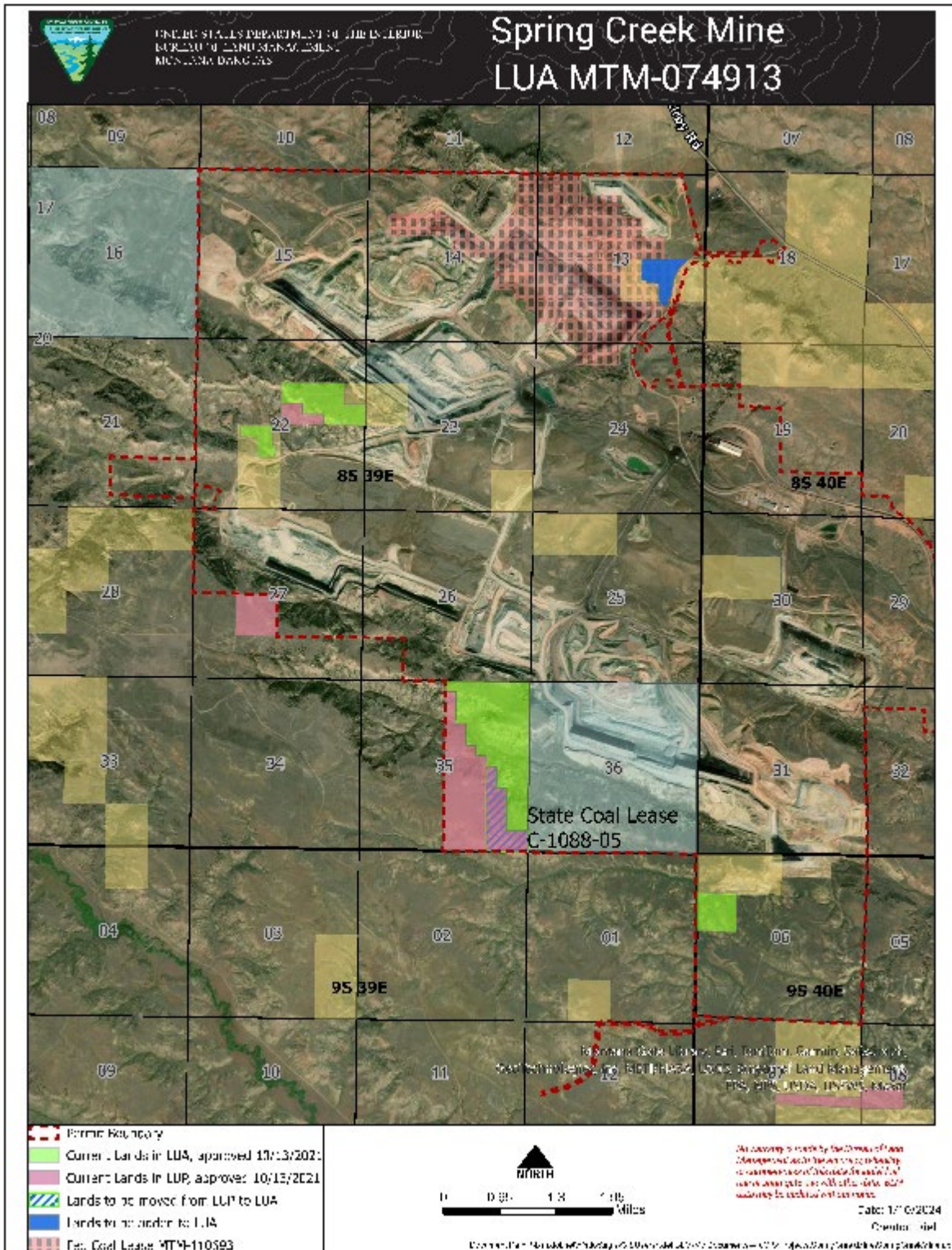
## Appendix C: Acronyms and Abbreviations

NTEC	Navajo Transitional Energy Company
DEQ	Department of Environmental Quality
LUA	Land Use Authorization
LUP	Land Use Permit
SHPO	State Historic Preservation Office
PFYC	Potential Fossil Yield Classification
BMP	Best Management Practices
MCFO	Miles City Field Office

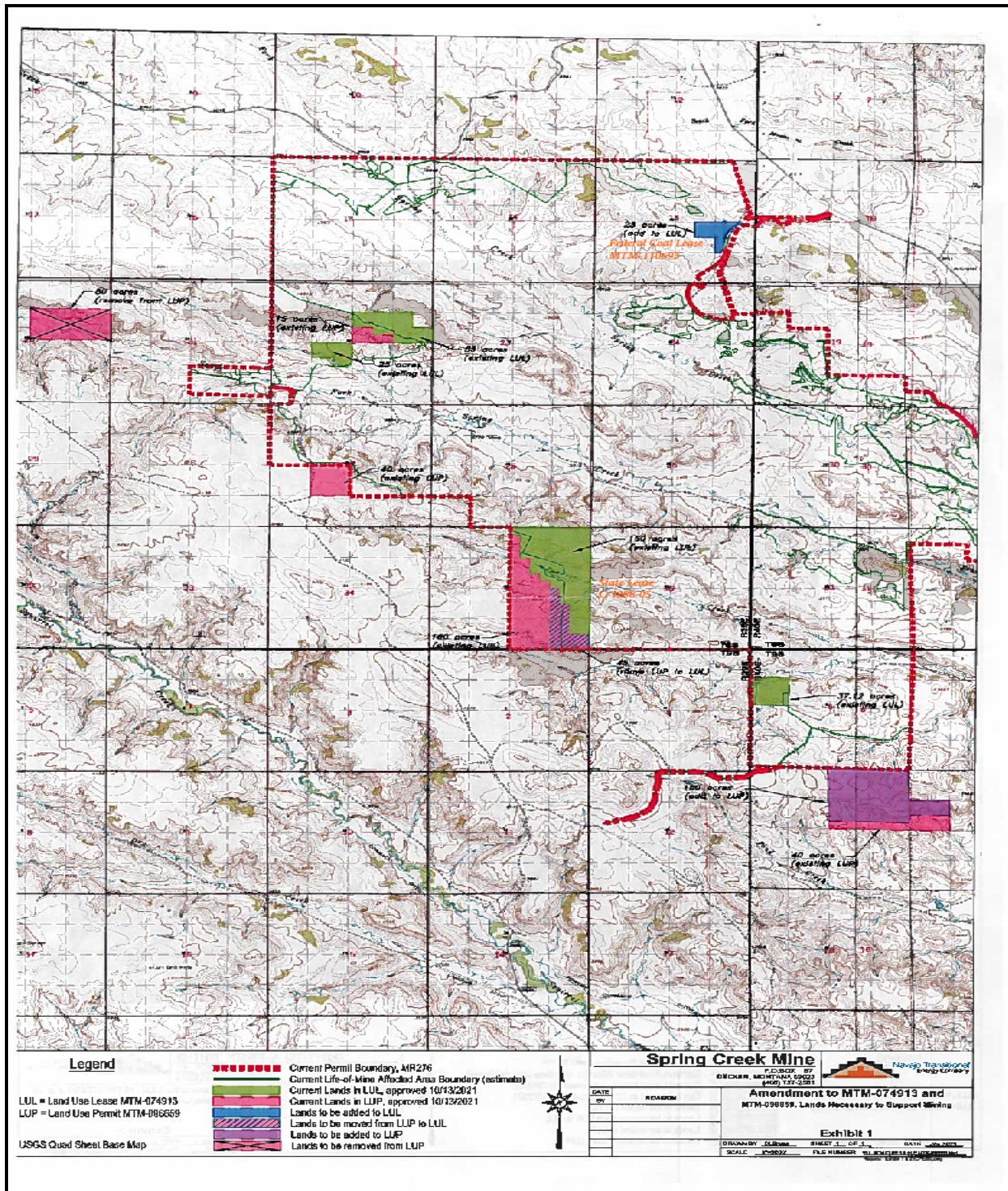
## Appendix D: List of References

- Bureau of Land Management (BLM) 2015. Bureau of Land Management Miles City Field Office, Proposed Resource Management Plan and Final Environmental Impact Statement, June 2015.
- BLM. 2023. BLM Specialist Report on Annual Greenhouse Gas Emissions and Climate Trends. Available online at: <https://www.blm.gov/content/ghg/2022>.
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- EIA (U.S. Energy Information Administration). 2024. Average weekly coal commodity spot prices: Powder River Basin from 12/22/23 to 1/19/24. Accessed 01/24/2024 at <https://www.eia.gov/coal/markets>
- Headwaters Economics. 2024. Bureau of Land Management Socioeconomic Profile: Big Horn County, MT. Accessed 01/23/2024 at <https://headwaterseconomics.org/tools/blm-profiles>
- Mine Safety and Health Administration. 2024. Mine Data Retrieval System: Mine Employment/Production for Spring Creek Mine. Accessed 01/24/2024 at <https://www.msha.gov/data-and-reports/mine-data-retrieval-system>
- Soil Survey Staff, Natural Resources Conservation Service, United States Department of Agriculture. Web Soil Survey. Available online. Accessed 01/04/2024.

# Appendix E: Maps



**Map.1 The map shows the BLM lands proposed to be added to LUA in Section 13 & 35, T. 8S., R. 39E.**



Map 2. Shows the BLM lands to be added and removed from LUP.

# Appendix F: Figures

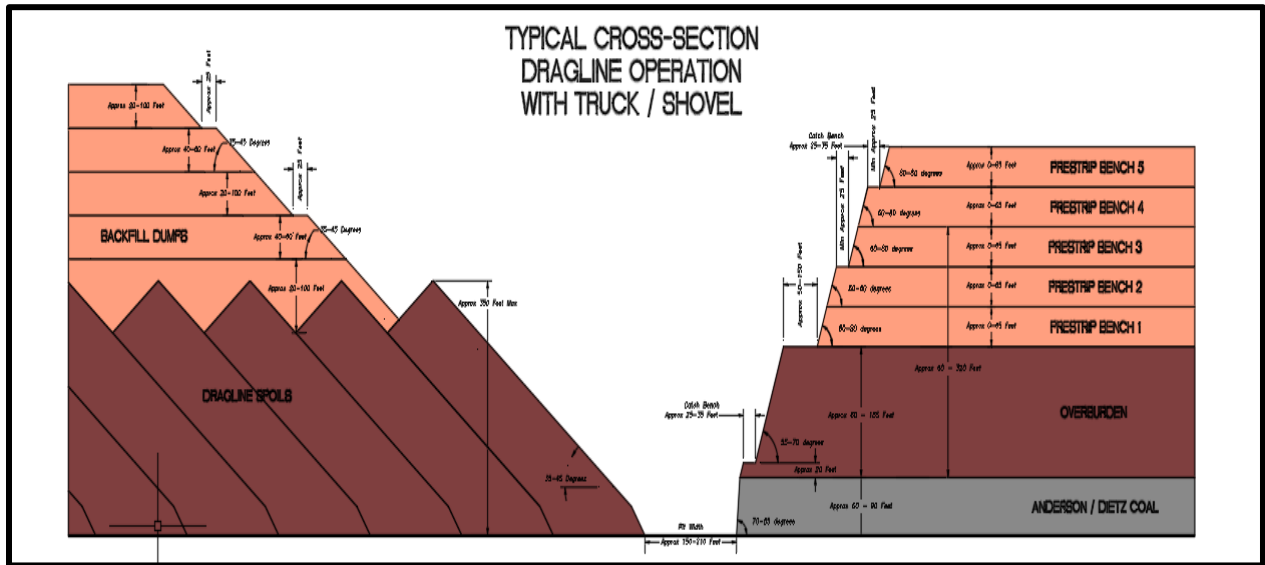


Figure 1. Lands adjacent to a coal lease need to be disturbed to remove coal within lease boundary. (Source NTEC, Spring Creek Mine)

Disturbance Type	Est. Acreage	% Disturbance
Pit Layback/Facilities/Roads/Stockpiles/Flood Control/ Access Control	37	100
Incidental Use –Monitoring/Access Control/Buffer Areas- no planned disturbance	30	<5
TOTAL	67	

Figure 2. Table shows the estimated disturbance to proposed 67-acres of the LUA.



## Appendix G: Stipulations for the LUA and LUP

### MTM-74913 EXISTING LAND USE AUTHORIZATION STIPUALTIONS

- a. The Flood Control Structures will be constructed in accordance with the Mine Safety and Health Administration (MSHA) design and operation requirements.
- b. The holder shall comply with all applicable Federal laws and regulations existing or hereafter enacted or promulgated. In any event, the holder(s) shall comply with the Toxic Substances Control Act of 1976, as amended (15 U.S.C. 2601, et seq.) with regard to any toxic substances that are used, generated by or stored on the right-of-way or on facilities authorized under this right-of-way grant. (See 40 CFR, Part 702-799 and especially, provisions on polychlorinated biphenyls, 40 CFR 761.1-761.193.) Additionally, any release of toxic substances (leaks, spills, etc.) in excess of the reportable quantity established by 40 CFR, Part 117 shall be reported as required by the Comprehensive Environmental Response, Compensation and Liability Act of 1980, Section 102b. A copy of any report required or requested by any Federal agency or State government as a result of a reportable release or spill of any toxic substances shall be furnished to the authorized officer concurrent with the filing of the reports to the involved Federal agency or State government.
- c. The holder shall conduct all activities associated with the construction, operation, and termination of the land use lease within the authorized limits of the lease.
- d. The holder shall be responsible for weed control on disturbed areas within the limits of the lease. The holder is responsible for consultation with the authorized officer and/or local authorities for acceptable weed control methods.
- e. The holder shall coordinate with the parties holding authorized rights on the adjacent and affected lands [such as working out other grazing options with the grazing permittees/lessees].
- f. This land use authorization amendment is issued subject to a subsequent appraisal by a qualified appraiser of Appraisal Office and Valuation Service (AVSO). The authorized user agrees to pay the Bureau of Land Management, upon demand, those fees determined in the appraisal to represent the fair market rental for the use of the public lands involved in this land use authorization amendment.
- g. The holder is responsible to reclaim the disturbed lands to permitted conditions (under DEQ permit), using a BLM approved native seed mix which includes native grasses, forbs and shrubs. The topography and vegetation shall blend in with the surrounding landscape as required in Appendix N of the MCFO ARMP.
- h. Reclamation of disturbed areas must include control of all noxious weeds and invasive plant species, including cheatgrass (*Bromus tectorum*), Japanese brome (*Bromus japonicas*), and ventenata (*Ventenata dubia*).

i. No surface disturbance is authorized on BLM LAU lands from April 15 through July 15 to avoid disturbance to ground nesting and migratory birds.

j. No surface disturbing activities are authorized within 3.1 miles of a confirmed active Greater Sage-grouse lek on BLM lands from March 15 through July 15 to minimize disruption to Greater Sage-grouse lekking and brood rearing activities.

## **MTM-96659 EXISTING LAND USE PERMIT STIPULATIONS**

- a. This land use authorization is issued subject to a subsequent appraisal by a qualified appraiser of the Appraisal Valuation Service Office (AVSO). The authorized user agrees to pay the Bureau of Land Management, upon demand, those fees determined in the appraisal to represent the fair market rental for the use of the public lands involved in this land use authorization.
- b. This permit is automatically renewable upon payment of the annual rental unless the authorized officer notifies the permittee within 60 days of the expiration date of the permit that the permit will not be renewed.
- c. No surface disturbance is allowed; any future proposed surface disturbance will require additional authorization.
- d. No activities shall take place during periods when the soil is too wet to adequately support vehicles. If vehicles create ruts in excess of three inches deep, the soil shall be deemed too wet to adequately support them.
- e. Any cultural and/or paleontological resource (historic or prehistoric site or object) discovered by the holder, or any person working on his behalf, on public or Federal land shall be immediately reported to the authorized officer. Holder shall suspend all operations in the immediate area of such discovery until written authorization to proceed is issued by the authorized officer. An evaluation of the discovery will be made by the authorized officer to determine appropriate actions to prevent the loss of significant cultural or scientific values. The holder will be responsible for the cost of evaluation and any decision as to proper mitigation measures will be made by the authorized officer after consulting with the holder.
- f. The holder shall comply with all applicable Federal laws and regulations existing or hereafter enacted or promulgated. In any event, the holder(s) shall comply with the Toxic Substances Control Act of 1976, as amended (15 U.S.C. 2601, et seq.) with regard to any toxic substances that are used, generated by or stored on the right-of-way or on facilities authorized under this right-of-way grant. (See 40 CFR, Part 702-799 and especially, provisions on polychlorinated biphenyls, 40 CFR 761.1-761.193.) Additionally, any release of toxic substances (leaks, spills, etc.) in excess of the reportable quantity established by 40 CFR, Part 117 shall be reported as required by the Comprehensive Environmental Response, Compensation and Liability Act of 1980, Section 102b. A copy of any report required or requested by any Federal agency or State government as a result of a reportable release or spill of any toxic substances shall be furnished to the authorized officer concurrent with the filing of the reports to the involved Federal agency or State government.
- g. This permit is issued subject to the holder's compliance with the mitigations set forth in the application/plan of development.

h. The holder shall coordinate with the parties holding authorized rights on the adjacent and affected federal lands [such as the grazing permittees/lessees and right-of-way holders if any].