

**U.S. Department of the Interior  
Bureau of Land Management  
Colorado State Office  
2850 Youngfield Street  
Lakewood, Colorado 80215**

**DECISION RECORD**

**(DOI-BLM-CO-S010-2011-0074 EA)**

**CASEFILE/PROJECT NUMBER:** COC-62920

**LOCATION:**

**COC-62920 Modification**

New Mexico Principle Meridian, La Plata County, Colorado

Tract A - containing 220.00 acres more or less

T. 35 N., R. 11 W., N.M.P.M., Sec. 19, NE, S2SE, and Sec. 20, N, NWNW

Tract B - containing 360.55 acres more or less

T. 35 N., R. 11 W., N.M.P.M., Sec. 30, lots 1–4, E2NW, and NWNE;

T. 35 N., R. 12 W., N.M.P.M., Sec. 25, lots 3–8

Tract D - containing 10.00 acres more or less

T. 35 N., R. 12 W., N.M.P.M., Sec. 26, SE, ENE

Tract E - containing 360.00 acres more or less

T. 35 N., R. 12 W., N.M.P.M., Sec. 35, NENW, S2NW, SW, and S2SE

Containing 950.55 acres, more or less.

**PROJECT NAME:** King II Coal Lease Modification

**APPLICANT:** GCC Energy, LLC

**COMPLIANCE WITH MAJOR LAWS & CONFORMANCE WITH THE LAND USE PLAN:**

This decision complies with applicable laws, regulations and policy, including the National Environmental Policy Act of 1970, the Endangered Species Act, Migratory Bird Treaty Act, Clean Water Act, Clean Air Act, and the National Historic Preservation Act. This decision is also in compliance with the 2015 Tres Rios Field Office (TRFO) Approved Resource Management Plan (RMP) and Record of Decision.

### **DECISION:**

Based on the (1) analysis conducted in Environmental Assessment (EA) DOI-BLM-CO-S010-2011-0074-EA, (2) associated Finding of No Significant Impact (FONSI), and (3) the recommendation of the TRFO Field Manager, it is my decision to authorize the modification of Federal Coal Lease COC-62920 (Proposed Action). The lease modification will add approximately 950.55 acres to the existing 1,311.69 acre lease, extending the life of the King II Mine by an estimated five to seven years and preventing the bypass of approximately 4.66 million tons of recoverable federal coal. The lease modification area consists of a split estate, in which the BLM manages the subsurface federal minerals, but not all of the surface lands.

My decision to modify the lease does not authorize GCC to conduct mining operations within the modified tracts. GCC must receive approval of its Permit Application Package from the Office of Surface Mining Reclamation and Enforcement (OSMRE) and the Colorado Division of Reclamation, Mining, and Safety (CDRMS) and the Assistant Secretary for Land and Minerals Management must issue a decision regarding the mining plan modification before mining can occur. GCC will conduct coal removal from the lease modification areas in the same manner as current operations at the King II Mine, using existing surface facilities.

### **FINDING OF NO SIGNIFICANT IMPACT:**

The BLM prepared a FONSI based on the information contained in the EA and in consideration of the criteria for significance outlined in 40 CFR 1508.27. It is my determination that the Proposed Action is consistent with the TRFO RMP. The Proposed Action does not constitute a major federal action that would have a significant effect on the human environment. Therefore, an Environmental Impact Statement is not necessary.

### **RATIONALE:**

The BLM is required by law to consider the leasing of federally owned minerals for economic recovery. In addition, the Proposed Action to modify the lease is consistent with current land management direction for the Project area set forth in the Tres Rios Field Office Approved Resource Management Plan (RMP) (BLM 2015).

According to 43 CFR 3432.2, an authorized officer may modify a lease to include all or part of the lands applied for if the authorized officer determines that:

- 1) The modification serves the interests of the United States. The BLM is responsible for the multiple use of public lands and resources, including responsible development of energy and mineral resources. The lease modification supports Executive Order on Promoting Energy Independence and Economic Growth, which encourages the prudent development of natural resources, including coal. Additionally, the lease modification does not exceed the acreage limitation of 960 acres, as set forth in the Energy Policy Act of 2005.
- 2) There is no competitive interest in the lands or deposits. While preparing the EA,

including all comment periods, the BLM and OSMRE did not receive any expression of competitive interest in the lease modification lands.

- 3) The additional lands or deposits cannot be developed as part of another potential or existing independent operation. There are no existing or proposed coal mines in the area. The lease modification allows mining of federal coal that is not accessible or recoverable by any other operation. The federal coal reserves underlying the lease modification lands would be bypassed without the Proposed Action. Therefore, the Proposed Action provides a logical and sustained link for continued operations at GCC's King II Mine.

Based on the above determinations, Lease COC-62920 meets the criteria for modifying an existing lease.

BLM approval of the Proposed Action enables the applicant to access an additional 4.66 million tons of recoverable federal coal reserves for the continued efficient and economic recovery of the coal resource, which provides a logical progression of sequenced mining. The lease modification also ensures that the resources are not bypassed and that the maximum economic recovery of the federal coal resource is achieved. These additional tons would extend the mine life by approximately five to seven years through at least 2023. Yet, issuing this modification will not result in GCC exceeding currently permitted levels of annual coal production at the King II Mine.

I make this decision to authorize the Proposed Action based on: (1) consideration of potential impacts to affected resources, (2) the finding that the Proposed Action is in conformance with the TRFO RMP, and (3) the modification would not result in undue or unnecessary environmental degradation. GCC does not propose to expand surface facilities as part of the lease modification. BLM anticipates surface disturbance of less than 5.0 acres as a result of implementing the Proposed Action. The existing surface facilities for the mine are located on State of Colorado lands, while the land overlying the lease modification tracts consists of Ute Mountain Ute and private lands.

The 950.55-acre coal lease modification allows GCC Energy to continue to compete for sales in a competitive market, extend the life of the King II Mine, and be consistent with BLM management goals and prescriptions for the lease modification area. Rejecting the Proposed Action would result in the bypass of 4.66 million tons of recoverable coal, a meaningful federal asset and an important component of state and local revenue.

This decision balances recovery of coal resources with the protection of other resources and resource uses consistent with the applicable laws, regulations, and BLM policies. This decision also adheres to the TRFO RMP goals, objectives, standards, guidelines, and multiple-use decisions. GCC submitted the coal lease modification application, and BLM reviewed its application, under the Mineral Leasing Act of 1920, Federal Coal Leasing Amendments Act of 1976, and 43 CFR 3432.

In addition, BLM considered the following factors in the decision to modify Lease COC-62920:

### Domestic Energy:

The BLM coal leasing program encourages developing domestic coal reserves and reducing the United States' dependence on foreign sources of energy. The BLM recognizes that extracting coal is currently necessary to meet the nation's energy needs. Private development of federal coal reserves is integral to the BLM coal leasing program under the authorities of the Mineral Leasing Act of 1920, the Federal Land Policy and Management Act of 1976, and the Federal Coal Leasing Amendments Act of 1976.

### Low-Sulfur Coal:

GCC Energy applied for the 950.55-acre lease modification to extend the life of the King II Mine by acquiring access to a continuing supply of low sulfur compliance coal that will be sold to cement plants, fuel kilns, regional steam-powered railroads, and a home heating concessionaire.

### Continued Economic Activity:

The leasing and subsequent mining of federal coal reserves continue mining related economic activity in the area, including jobs and labor income. The United States, the State of Colorado, and La Plata County will continue to receive revenue in the form of lease bonus payments, lease royalty payments, and tax payments. Lease royalty payments will continue until the reserves in the lease modification have been exhausted by approximately 2023.

### Endangered Species Act:

The BLM and OSMRE completed an informal Section 7 consultation under the Endangered Species Act for this action. The Biological Assessment (BA), located in Appendix D of the EA, determined that the Proposed Action "may affect, but is not likely to adversely affect" the Rio Grande Silvery Minnow, Greenback Cutthroat Trout, Colorado Pikeminnow, and Razorback Sucker. There would be no impacts to critical habitat for Rio Grande Silvery Minnow as there would be no changes to any of the constituent elements of the habitat. The United States Fish and Wildlife Service concurred with the determination of "may affect, but is not likely to adversely affect" in an August 16, 2017 Memorandum to OSMRE and BLM (see Appendix D).

## COMPLIANCE

Routine compliance inspections will take place periodically throughout the life of this project. To insure that all lease terms and conditions and stipulations are being implemented as required, the BLM mining engineer will conduct Inspection and Enforcement examinations at least quarterly. CDRMS conducts monthly surface inspections of the surface facilities. OSMRE conducts quarterly inspections on the King II surface facilities and also conducts oversight inspections of the CDRMS inspection program.

## PUBLIC INVOLVEMENT:

The BLM conducted initial external public scoping from November 23 through December 24, 2012. The BLM mailed notices to adjacent landowners and to other expressly interested parties, including federal, state, and local agencies. The BLM also posted a notice on the Tres Rios Field Office NEPA webpage. In total, the BLM sent 21 scoping letters and received eight scoping response letters/emails. In November 2012, the TRFO also sent 31 letters to regional Tribes with

recognized affiliation to the project area. TRFO received one response, from the Hopi Tribe, which provided recommendations on TRFO actions should cultural resources be encountered during implementation of the Proposed Action.

After determining to serve as co-lead agencies in the preparation of an environmental assessment, the BLM and OSMRE conducted a supplemental scoping period from January 6 through February 6, 2017. The BLM and OSMRE mailed notices to 133 interested parties comprised of local, state, and federal governmental agencies and representatives, adjacent landowners and/or attorneys representing the landowners, several departments within the Ute Mountain Ute Tribe, and several non-profit organizations.

Under the Department of the Interior's Policy on Consultation with Indian Tribes (2011) and the National Historic Preservation Act of 1966, the BLM and OSMRE sent a notice of supplemental scoping to 47 tribes from the Colorado Office of Archaeology and Historic Preservation directory of tribes with historic ties to Colorado. Two tribes responded. The Hopi Tribe responded with a letter deferring further consultation of the Proposed Action to the Ute Mountain Ute Tribe. The Kiowa Tribe responded and stated that they had no comments on the project. The Durango Herald also published an article about the Proposed Action that included information on how to submit supplemental scoping comments.

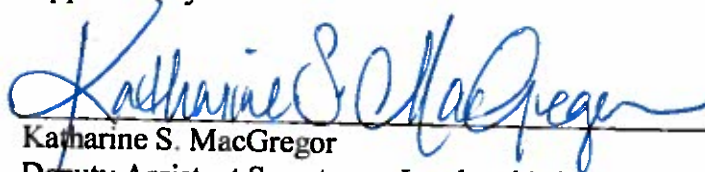
During the supplemental scoping period, the BLM and OSMRE received a total of 14 comment submittals containing 80 individual comments via the project email address.

A public comment period on the EA took place from June 9, 2017 through July 10, 2017. Fifty-eight commenters responded with 172 comments. The BLM considered all comments received. These comments and BLM's responses to the comments are tabulated in Appendix B of the EA. The public comments were useful in my decision-making process—the helped frame and provide more depth to the key issues.

#### FINAL AGENCY ACTION

I hereby approve this decision. My approval of this decision constitutes the final decision of the Department of the Interior and, in accordance with the regulations at 43 C.F.R. § 4.410(a)(3), is not subject to appeal to the Office of Hearings and Appeals under Departmental regulations at 43 CFR Part 4.

Approved by:



12.15.2017

Katharine S. MacGregor  
Deputy Assistant Secretary – Land and Minerals Management, Exercising the Authority of the  
Assistant Secretary – Land and Minerals Management  
U.S. Department of the Interior