



DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

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Notice of Availability of the Final Environmental Impact Statement and Record of Decision for Bull Mountains Mine No. 1, Federal Mining Plan for Federal Lease MTM-97988 Amendment 3

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Notice of availability of the final environmental impact statement and record of decision

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSMRE) is publishing this notice to announce that it has prepared a Final Environmental Impact Statement (FEIS) and Record of Decision (ROD) for Signal Peak Energy's (SPE) Federal Mining Plan Modification Amendment 3 for Federal Lease MTM-97988 (the Project). OSMRE prepared this FEIS to address the deficiencies identified in the October 14, 2022, order from the Ninth Circuit Court of Appeals, regarding OSMRE's 2018 Environmental Assessment (EA).

DATES: The U.S. Environmental Protection Agency (EPA) will also publish a notice of availability in the *Federal Register*. OSMRE has issued a single document that consists of a FEIS and ROD. OSMRE is not requiring a 30-day waiting period before issuing the ROD for this project because it is not required by the National Environmental Policy Act (NEPA). The Council on Environmental Quality (CEQ) rescinded the NEPA implementing regulations containing that requirement, and the Department of the Interior's (Department's) NEPA implementing regulations do not contain any independent requirement for a 30-day waiting period.

ADDRESSES: The FEIS and ROD and documents pertinent to this project are available for review on OSMRE's website at: <https://www.osmre.gov/laws-and-regulations/nepa/projects>.

FOR FURTHER INFORMATION CONTACT: Marcelo Calle, Acting Regional Director, OSMRE Western Regions 5, 7–11, P.O. Box 25065, Lakewood, CO 80225–0065; (303) 236–2929 or mcalle@osmre.gov.

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Project Background

In 1992, the Montana Department of Environmental Quality (MDEQ) issued a mining permit pursuant to the Montana equivalent of the Surface Mining Control and Reclamation Act of 1977 (SMCRA) for the Bull Mountains Mine. Over time, ownership changed, and in 2008, SPE applied to lease the Federal coal from the Bureau of Land Management (BLM) under the Mineral Leasing Act of 1920. The BLM prepared an EA and issued a finding of no significant impact (FONSI) in 2011 on the decision to approve the lease. Montana has approved several amendments to SPE's State surface mining permit, and most of the area covered by Federal coal lease MTM-97988 is within what is known as Amendment (AM) 3. OSMRE first recommended, and the Assistant Secretary of Land and Minerals Management (ASLM) first approved, a modification to the Bull Mountains Mine's operation and reclamation (i.e., mining plan modification) in 2015. After legal challenge, ASLM approved another mining plan modification for the same lease in 2018. Additional legal challenges led to the judicial vacatur of the 2018 mining plan modification in 2023. SPE is now seeking a new mining plan modification to allow it to continue mining leased Federal coal. Without a new approved mining plan

modification from the ASLM to mine the leased Federal coal, SPE would be unable to access most of the remaining non-Federal coal resources within AM 3 due to the checkerboard mineral ownership pattern.

Purpose and Need for the Proposed Action

This FEIS was prepared in response to the Ninth Circuit's opinion that OSMRE violated NEPA when it failed to provide a convincing statement of reasons in its 2018 EA and FONSI about why greenhouse gas emissions from the mine were not significant, and the district court's subsequent vacatur of the 2018 mining plan approval for AM 3. Before SPE can continue to mine the leased Federal coal within AM 3, it must obtain approval from the ASLM. To support the ASLM's decision, OSMRE must prepare a mining plan decision document, which includes environmental documents, such as those needed for compliance with NEPA, and a recommendation to ASLM to either approve, disapprove, or approve with conditions, the proposed mining plan modification. This NEPA analysis informs OSMRE's recommendation.

SPE's need for this action is to exercise its rights under Federal coal lease MTM-97988 granted by the BLM to access and mine the Federal coal reserves, in accordance with the mining and reclamation plan approved by MDEQ as AM 3 to the State surface mining permit. ASLM approval of the Federal mining plan modification is required to mine Federal coal reserves within the AM 3 mining area.

Proposed Action and Alternatives

Under the Proposed Action, OSMRE would recommend to the ASLM to approve the mining plan modification as proposed by SPE. If approved by the ASLM, the Proposed Action would allow the recovery of approximately 22.8 million tons (Mt) of saleable Federal coal and approximately 34.5 Mt of adjacent saleable non-Federal coal over a period of up to 9 years.

The FEIS analyzes three alternatives:

- *No Action*, in which OSMRE would recommend that the ASLM disapprove the mining plan modification. If disapproved by the ASLM, SPE would be unable to mine approximately 22.8 Mt of saleable Federal coal and approximately 34.5 Mt of saleable non-Federal coal in AM 3. However, under this alternative, the mine would not be expected to immediately shut down and go into reclamation because, within an estimated 1-year period, SPE could recover approximately 10.0 Mt of remaining saleable coal in the permit area without accessing Federal coal.
- *Proposed Action*, in which OSMRE would recommend that the ASLM approve the mining plan modification. If approved by the ASLM, the Proposed Action would authorize SPE to continue coal mining on approximately 1,239.6 acres of Federal coal lands and approximately 1,840.7 acres of adjacent non-Federal coal lands in AM3; and allow for the recovery of approximately 22.8 Mt of saleable Federal coal and approximately 34.5 Mt of adjacent saleable non-Federal coal over a period of up to 9 years.
- *Partial Mining Alternative*, in which OSMRE would recommend that the ASLM approve the mining plan modification with a condition to limit the approval to approximately 5 years. If approved by the ASLM, the Partial Mining Alternative would sunset the mining plan modification approval for Federal coal within AM 3 after approximately 5 years, at which time no additional Federal coal would be mined unless SPE applied for, and obtained, a separate mining plan modification approval to mine the remaining Federal coal. During this 5-year approval term, approximately 1,005.2 acres of Federal coal lands and 1,709.1 acres of non-Federal coal lands would be disturbed, and approximately 18.7 Mt of Federal coal and 32.2 Mt of non-Federal coal would be recovered.

Based on the analyses contained in the FEIS, OSMRE has selected the Proposed Action as the preferred alternative.

Summary of Expected Impacts

Reasonably foreseeable effects of mining Federal coal have been evaluated for the following resources in the FEIS and ROD:

- Transportation and Electrical Transmission
- Air Quality and Emissions
- Water Resources
- Land Use
- Topography and Physiography
- Geology, Minerals, and Paleontology
- Solid Waste and Hazardous Materials
- Human Health and Safety
- Soils
- Vegetation
- Wildlife
- Threatened, Endangered, and Special Status Species
- Cultural Resources
- Noise and Vibration
- Socioeconomics
- Visual Resources

Anticipated Permits and Authorizations

None at this time.

Public Participation

OSMRE issued a notice of intent (NOI) to prepare an environmental impact statement (EIS) in the *Federal Register* and announced the NOI through a news release

and on its website and hosted two 30-day public scoping periods. OSMRE requested public scoping comments to identify any additional relevant issues concerning the mine expansion that should be evaluated in the EIS. The public was provided the opportunity to comment on the Project via mail, email, and during the public scoping meeting. OSMRE received a total of 311 comment submittals from Federal and State agencies, non-governmental organizations, and members of the public during the public scoping periods. Comment letters received during the public scoping periods have been reviewed and a description of issues analyzed are summarized in the FEIS. In addition, OSMRE had solicited public comment on previous NEPA documents related to this approval; those comments and the responses given at that time helped inform this FEIS.

Lead and Cooperating Agencies

OSMRE is the lead agency for this EIS. The BLM and EPA are cooperating agencies on the EIS.

Decision Maker

Assistant Secretary for Land and Minerals Management.

Alternative Arrangement Determination

On January 20, 2025, President Donald J. Trump issued Executive Order (E.O.) 14156 – “Declaring a National Energy Emergency,” which declared a national energy emergency and directed Federal agencies to expedite permits and approvals for energy projects, including those on Federal lands, using emergency provisions. During an emergency, a responsible official of the Department can adopt alternative arrangements to comply with NEPA before taking “urgently needed actions.” (43 CFR 46.150). On April 23, 2025, CEQ authorized the use of alternative arrangements for projects that respond to the national energy emergency and the Department subsequently adopted alternative arrangements for qualifying projects to comply with NEPA.

After reviewing SPE's request that the Department apply its alternative arrangements to its proposed mining plan modification, the ASLM approved the alternative arrangement for NEPA compliance for this energy-related project on May 12, 2025. In reaching this determination, the ASLM relied on SPE's request for alternative arrangement, E.O. 14156, E.O. 14154 ("Unleashing American Energy"), E.O. 14261 ("Reinvigorating America's Beautiful Clean Coal Industry"), Secretary's Order (S.O.) 3417, S.O. 3418, various documents related to the ongoing NEPA analysis for this proposed mining plan modification, and consultations with OSMRE. Importantly, the ASLM concluded that this proposed project seeks to advance energy production and would export nearly all its coal to Japan and South Korea, important defense allies of the United States. Finally, the ASLM also determined that additional public comment was unnecessary due to the prior robust opportunities for public participation and the fact that another 10-day comment period on another NOI was unlikely to yield substantive comments.

OSMRE Recommendation

Informed by, at a minimum, the material required at 30 CFR 746.13, including information prepared in compliance with NEPA, OSMRE must make a recommendation to the ASLM about the proposed Federal mining plan modification associated with AM 3. The ASLM will use OSMRE's recommendation to decide whether a new mining plan modification is approved, disapproved, or approved with conditions.

As documented in the ROD, OSMRE is recommending that the ASLM approve the proposed mining plan modification, including the entire area covered by AM 3, as discussed in the EIS.

Thomas D. Shope,

Regional Director, Exercising the delegated authority of the Director,

Office of Surface Mining Reclamation and Enforcement.

