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United States Department of the Interior

OFFICE OF SURFACE MINING
RECLAMATION AND ENFORCEMENT
Western Region Office
1999 Broadway, Suite 3320
Denver, CO 80202-3050

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DIV OF OIL, GAS & MINING

UT-0005

February 25, 2019

Steve Christensen
Utah Division of Oil, Gas & Mining
1594 West North Temple, Suite 1210
Salt Lake City, Utah 84116

Re: Emery Deep Mine Access Right-of-Way Revision, 120 Acre Additional Adjacent Area, C/015/0015, Bronco Utah Operations, LLC

Dear Mr. Christensen,

This letter documents the Office of Surface Mining Reclamation and Enforcement's (OSMRE) determination of whether mining through the Emery Right-of-Way additional adjacent area at the underground Emery Deep 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 C.F.R. Part 746.

As described in the permit revision submitted to the Utah Division of Oil, Gas & Mining (DOGM), Bronco Utah Operations, LLC (BUOLLC) is proposing to mine through a Bureau of Land Management (BLM) Right-of-Way (ROW), mining approximately 200,000 tons of unleased Federal coal to be sold at no profit. The underground ROW footprint is approximately 31.5 acres. The average depth from the surface to the underground ROW is 165 feet. The ROW allows mining operations currently mining BUOLLC owned coal (fee coal), to access coal owned by the State of Utah, administered by its School and Institutional Trust Lands Administration.

The Emery Deep Mine Access ROW is located approximately 4 miles south of the town of Emery in Emery County, Utah. Prior Federal mining plan approvals include: Federal lease U-5287 approved on October 22, 1985; Federal lease UTU-50044 approved on March 29, 2007; and Federal lease UTU-86038 approved on November 30, 2009. Those mining plan approvals authorized the removal of approximately 4.3 million tons of recoverable Federal coal.

No surface disturbance is proposed for this action and no subsidence is expected to occur. The current mining methods of room and pillar and longwall mining would not change. There would be no change in the amount of employees at the mine and transportation of the coal, by truck, would continue.

The BLM Price Field Office (PFO) completed an environmental assessment titled *United States Department of the Interior Bureau of Land Management, Environmental Assessment, DOI-BLM-UT-G020-2018-0051-EA, February 2019, Emery Deep Mine Access Right-of-Way*. The EA analyzed Air Quality, Green House Gasses and Climate Change, and Socioeconomics. On February 6, 2019, BLM signed their Decision Record and Finding of No Significant Impact documentation. The EA can be found on BLM's ePlanning website at: https://eplanning.blm.gov/epl-front-office/eplanning/projectSummary.do?methodName=renderDefaultProjectSummary&projectId=116574. On February 6, 2019, BLM issues a Right-Of-Way Grant, Serial Number UTU-93562 pursuant to Title V of the Federal Land Policy and Management Act of October 21, 1976 (90 Sat. 2776; 43 U.S.C 1761).

On December 14, 2018, OSMRE consulted with the BLM PFO about the Emery Deep Mine Access ROW Revision. The BLM agrees with OSMRE's conclusion that the permit revision does not constitute a mining plan modification requiring approval by the ASLM. The requirements of 30 C.F.R. Part 746, titled *Review and Approval of Mining Plans*, are only applicable to Federal leased coal; the ROW does not include Federal leased coal. Furthermore:

1. There is no change in the mining plan that would affect the conditions of its approval pursuant to Federal law or regulation. *See* 30 C.F.R. § 746.18(d)(1).
2. No change would occur that would affect the level of protection to land, facilities and places designated unsuitable for mining because the area is designated as suitable for mining. *See* 30 C.F.R. § 746.18(d)(2).
3. The change in the amount of coal to be mined (200,000 tons) is minor compared to what has been approved (4.3 million tons). *See* C.F.R. § 746.18(d)(3).
4. The permit revision would not extend mining and reclamation activities onto leased Federal coal for the first time. The ROW is not a Federal lease. *See* 30 C.F.R. § 746.18(d)(4).
5. The permit revision does not meet OSMRE's standards (516 DM 13.4) of a major Federal action normally requiring an Environmental Impact Statement. *See* 30 C.F.R. § 746.18(d)(5)).
6. There is no change proposed to the mining operations and reclamation plan that would result in a change to the post mining land use of Federally-owned surface land. The current post mining land use is grazing lands and wildlife habitat. *See* 30 C.F.R. § 746.18(d)(6).

Therefore, a mining plan approval from the ASLM is not required for the permit revision to mine within the Emery Deep Mine Access ROW. OSMRE's decision is based upon consideration of BUOLLC's permit revision (submitted to the DOGM) and the requirements at 30 C.F.R. Parts 740 and 746. Consequently, OSMRE's decision does not relieve DOGM from coordinating their review and approval of this action and securing approval from other Federal agencies for compliance.

Sincerely,

Elizabeth Shaeffer

Elizabeth Shaeffer, Manager
Field Operations Branch

cc: Steve Rigby - BLM Price Field Office
Kit Pappas – Bronco Utah Operations, LLC
John A. Gefferth - Barr