



## UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

### Region 6

1445 Ross Avenue, Suite 1200  
Dallas, TX 75202-2733

March 11, 2013

Joe Galluzzi  
Bureau of Land Management  
Farmington Field Office  
6251 College Blvd., Suite A  
Farmington, New Mexico 87402

Mr. Galluzzi:

In accordance with our responsibilities under Section 309 of the Clean Air Act (CAA) and the National Environmental Policy Act (NEPA), the U.S. Environmental Protection Agency (EPA) Region 6 has reviewed the Draft Environmental Assessment (EA) for the El Segundo Mine Lease in McKinley County, New Mexico. The proposed action seeks to lease private land and mine the federal coal reserves under the surface. EPA offers the following comments for your consideration in preparation of the Final EA.

#### 1.2 Purpose and Need

The purpose and need statement in the EA states “The purpose of the proposed action is to determine whether to lease the federal coal reserves in response to Peabody Natural Resources Company’s (PNRC) lease by application (LBA)”. The previous sentence seems to define the preparation of an EA by the Bureau of Land Management (BLM) as the proposed action. The proposed action is for PNRC to lease the land and mine the coal underneath. The (BLM) decision to lease the federal coal reserves is the purpose of preparing the EA.

- Please modify the purpose and need statement to adequately state the purpose and need of the proposed action.

#### 3.14 Cultural Resources and Native American Religious Concerns

Table 3.14-1 lists historical and cultural sites that require consultation for eligibility determinations with the New Mexico State Historic Preservation Officer (SHPO) and the Laguna Pueblo Tribe.

- Include all consultation correspondence and determinations of eligibility or concurrence from the SHPO and Laguna Pueblo Tribe in a dedicated section of the Final EA.

#### 4.1 Air and Climate resources

This section states that direct project impacts to ambient air quality will be temporary and localized, primarily due to equipment emissions and airborne particulate matter/fugitive dust.

- EPA recommends that, in addition to all applicable local, state, or federal requirements, the following mitigation measures be included in a emissions mitigation plan or similar

document in order to reduce air quality impacts associated with emissions of NO<sub>x</sub>, CO, PM, SO<sub>2</sub>, and other pollutants project activities:

Fugitive Dust Source Controls:

- Stabilize open storage piles and disturbed areas by covering and/or applying water or chemical/organic dust palliative where appropriate at active and inactive sites during workdays, weekends, holidays, and windy conditions;
- Install wind fencing and phase grading operations where appropriate, and operate water trucks for stabilization of surfaces under windy conditions; and
- Prevent spillage when hauling material and operating non-earthmoving equipment and limit speeds to 15 miles per hour. Limit speed of earth-moving equipment to 10 mph.

Mobile and Stationary Source Controls:

- Plan scheduling to minimize vehicle trips;
- Limit idling of heavy equipment to less than 5 minutes and verify through unscheduled inspections;
- Maintain and tune engines per manufacturer's specifications to perform at EPA certification levels, prevent tampering, and conduct unscheduled inspections to ensure these measures are followed;
- If practicable, utilize new, clean equipment meeting the most stringent of applicable Federal or State Standards. In general, commit to the best available emissions control technology. Tier 4 engines should be used for project equipment to the maximum extent feasible;
- Lacking availability of non-road equipment that meets Tier 4 engine standards, the responsible agency should commit to using EPA-verified particulate traps, oxidation catalysts and other appropriate controls where suitable to reduce emissions of diesel particulate matter and other pollutants at the construction site; and
- Consider alternative fuels and energy sources such as natural gas and electricity (plug-in or battery).

Administrative controls:

- Prepare an inventory of all equipment prior to project commencement and identify the suitability of add-on emission controls for each piece of equipment before groundbreaking;
- Develop a traffic and parking management plan that maintains traffic flow and plan construction to minimize vehicle trips; and
- Identify sensitive receptors in the project area, such as children, elderly, and infirmed, and specify the means by which impacts to these populations will be minimized (e.g. locate equipment and staging zones away from sensitive receptors and building air intakes).

#### 4.8 Wildlife and Migratory Birds

This section states "The Proposed Action would involve the use of vehicles and heavy equipment in the Project Area, which could result in mortality to individuals. Impacts to migratory birds would be greatest during the breeding season, approximately April 15 to July 15". In accordance with the Memorandum of Understanding (MOU) between BLM and the

United States Fish and Wildlife Service (USFWS) pertaining to Executive Order (EO) 13186 and the Migratory Bird Treaty Act of 1918 (MBTA); the BLM and USFWS are to take a collaborative approach to promote the conservation of migratory bird populations. According to the MBTA it is illegal to harass, injure, or kill over 1,000 species of birds protected by this act.

- EPA recommends BLM consult with USFWS to determine the best strategies to avoid or minimize the impacts of the proposed action on migratory birds.

#### 4.12 and 4.13 Socioeconomics and Environmental Justice

Although the EA describes the socioeconomic baseline of the proposed project and addresses potential impacts of the alternatives upon the socioeconomics of the area, it does not link this to the potential environmental impacts of the proposed project. In addition to the analysis of potential direct impacts, BLM should address potential indirect and cumulative impacts. An analysis of indirect and cumulative impacts would take into account any impacts of past actions in the area on minority and low-income communities.

- In order to perform an environmental justice (EJ) analysis, BLM needs to link the socioeconomics of the area (% minority, low income) with the potential environmental impacts of the project (i.e., air, waste, water impacts to these communities), and then determine whether there is a resulting disproportionate EJ impact.

#### 4.14 Cultural Resources and Native American Religious Concerns

The EA indicates that Tribes were identified and contacted for the limited purpose of discussing the National Historic Preservation Act (NHPA), or other concerns of a limited scope. For example, in the section identified as Traditional Cultural Properties (TCP), it states that PNRG consulted with Laguna, Acoma, Zuni Hopi, and Navajo Tribes. There is, however, a lack of documentation that Government to Government consultation, under EO 13175, occurred for the proposed project. Due to the nature of the project, it appears it could affect tribal resources (including natural resources), citizens, or government services.

- OEJTA recommends that BLM contact and, as appropriate, initiate consultation with Tribes under EO 13175 concerning the potential effects of its actions and provide documentation of consultation.

#### 4.16 Regulated Waste

This section states that there would be no change in the amount of solid or regulated waste generated by the mine. Section 3.16 states that regulated waste would be taken off site by a licensed contractor, and that solid waste will be used as backfill in the mine pits. The information in section 3.16 directly contradicts the information in section 4.16.

- Amend sections 3.16 and 4.16 to correctly state if there will be wastes generated by the mine, and how the waste will be disposed or treated.

We appreciate the opportunity to provide comments for the Draft EA. Please send the Final EA to my attention. Should you have any questions or concerns regarding this letter, do not hesitate to call me at 214-665-8006, or contact Keith Hayden of my staff, at 214-665-2133 or [hayden.keith@epa.gov](mailto:hayden.keith@epa.gov) for assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Rhonda Smith", with a long horizontal flourish extending to the right.

Rhonda Smith  
Chief, Office of Planning  
and Coordination