

DEPARTMENT OF THE INTERIOR**Office of Surface Mining Reclamation and Enforcement**

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Notice of Intent To Prepare an Environmental Impact Statement for Signal Peak Energy, LLC's Federal Mine Plan for Federal Lease MTM-97988; Bull Mountains Mine Amendment 3 and 5 EIS

AGENCY: Office of Surface Mining Reclamation and Enforcement, Regions 5, 7-11, Interior.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSMRE) is publishing this notice to announce that it will prepare an environmental impact statement (EIS) for Signal Peak Energy, LLC's (Signal Peak) proposed Federal Mining Plan modification for Federal Lease MTM-97988 (the Project). OSMRE is preparing this EIS to address deficiencies in OSMRE's earlier analysis of environmental impacts related to a mining plan modification that the Ninth Circuit Court of Appeals identified in a 2022 decision. *350 Mont. v. Haaland*, 29 F.4th 1158 (9th Cir. 2022), amended by 50 F.4th 1254 (9th Cir. 2022). With this notice, OSMRE is also providing notification to the public that it will hold a public scoping meeting and provide for a 30-day public scoping period to receive comments on the environmental issues, alternatives, and information that OSMRE should analyze in this EIS.

DATES: OSMRE requests comments concerning the scope of the analysis in the EIS, alternatives, and identification of relevant information, studies, and analyses. All comments must be received by September 6, 2023. The public scoping meeting will be held at the Roundup Community Center in Roundup, Montana from 3:00-6:00 p.m. MDT on Wednesday, August 30, 2023.

OSMRE anticipates publishing the draft EIS in Spring 2024 and the final EIS in Fall 2024 with the Record of Decision expected to be published in early 2025.

ADDRESSES: You may submit comments related to the Project by any of the following methods:

- *Email:* BULLMTNS_AMD3_EIS@icf.com Be sure to send emails with the subject line: ATTN: Bull Mountains Mine Amd 3 EIS.
- *Mail:* ATTN: Bull Mtns Amd3 EIS, C/O: Roberta Martínez Hernández,

OSMRE Western Regions 5, 7-11, P.O. Box 25065, Lakewood, CO 80225-0065.

FOR FURTHER INFORMATION CONTACT: Roberta Martínez Hernández, NEPA Project Manager; telephone (303) 236-4705; email: rmartinezhernandez@osmre.gov or at the address provided in the **ADDRESSES** section.

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: OSMRE Regions 5 and 7 through 11 will prepare an EIS for the Bull Mountains Mine Mining Plan modification to address a 2022 Ninth Circuit Court of Appeals decision related to the 2018 mining plan modification that OSMRE prepared for Federal Coal Lease MTM 97988. *350 Mont.*, 29 F.4th 1158. Mining of Federal coal was allowed to continue during the litigation challenging OSMRE's environmental assessment under the National Environmental Policy Act (NEPA), but the mining plan modification approval was ultimately vacated by the U.S. District Court for the District of Montana on February 10, 2023, requiring Signal Peak to immediately stop mining any remaining Federal coal authorized under the vacated mining plan. *350 Mont. v. Haaland*, 2023 U.S. Dist. LEXIS 23219 (D. Mont. Feb. 10, 2023), *motion for clarification denied*, 2023 U.S. Dist. LEXIS 33516 (D. Mont. Feb. 28, 2023). In accordance with the Mineral Leasing Act of 1920 (MLA), the Assistant Secretary for Land and Minerals Management (ASLM) must approve, disapprove, or approve the Project with conditions because the Project contains lands with leased Federal coal associated with MTM 97988. The Bull Mountains Mine is operated by Signal Peak under Permit C1993017, issued by Montana Department of Environmental Quality (MDEQ), in accordance with its state mine permit.

OSMRE will complete a corrective NEPA analysis by preparing an EIS to analyze the potential environmental effects of the Project, including potential effects on climate from project-related greenhouse gas emissions. The EIS will analyze the potential environmental effects of mining all of the Federal coal under the originally proposed mining plan modification, including the mining that already occurred under the now-vacated ASLM approval and the mining of the remaining Federal coal. The EIS will also consider an additional amendment currently pending with MDEQ which would add 7.1 million

tons (Mt) of Federal coal to the mining plan, and any new information available when analyzing potential impacts to other resources in the environment that could result if mining of the Federal coal is approved.

The Bull Mountains Mine is located approximately 30 miles north of Billings, Montana. The Project as proposed in 2015 allowed for 475 acres of additional surface disturbance and 37.5 Mt of recoverable Federal coal, extending the life of mine (LOM) by 11.5 years. Following the 2023 vacatur of the mining plan approval, mining of Federal coal at this site is currently stopped unless and until ASLM approves a new mining plan. As proposed, this mining plan modification, including the additional 7.1 Mt of Federal coal from lease MTM-97988 (Amendment 5), would allow for 249 acres of additional surface disturbance and recovery of an additional 30.6 Mt of Federal coal, extending the LOM by approximately 8 to 10 years, depending on production rates. The annual production rate used to calculate the environmental impacts resulting from the Project is approximately 8 to 10 million tons per year (Mtpy), which is below the maximum permitted production rate of 15 Mtpy set by MDEQ-Air Quality Division Air Quality Permit MAQP #3179-12. If the Bull Mountains Mine maintains an annual production rate of approximately 8 to 10 Mtpy, the Project could extend production until 2032, but this date could vary depending on annual production rates. As with other areas of the Bull Mountains Mine, coal would be primarily sold, exported, and combusted in South Korea and Japan, with approximately 4 percent being sent to domestic customers across the USA. If the Project is not approved, the Bull Mountains Mine would be expected to continue producing coal for approximately 1 to 2 years, ending in 2024 to 2025, depending on production rates. The surface of the permit area is a mix of private, State, and Federally owned land, and current surface land uses in the Project area include grazing and wildlife habitat.

Purpose and Need for the Proposed Action

On October 14, 2022, the Ninth Circuit Court of Appeals held that OSMRE failed to adequately examine the impacts of greenhouse gas emissions resulting from the 2015 Federal mining plan modification in OSMRE's 2018 Environmental Assessment and remanded the case to the U.S. District Court for the District of Montana. On February 10, 2023, the District Court

determined that vacatur of the approved Federal mining plan was necessary while OSMRE prepared the updated NEPA analysis. *350 Mont.*, 2023 U.S. Dist. Lexis 23219.

The purpose of this EIS is to complete a corrective NEPA analysis to analyze the potential environmental effects of the Project, including potential effects on climate from project-related greenhouse gas emissions. The EIS will consider any new information available in analyzing potential impacts to other resources in the environment that could result if mining of the Federal coal is approved, and will also consider the potential effects of proposed Amendment 5, which is pending before MDEQ.

In accordance with the MLA, the Department of the Interior's ASLM must approve, disapprove, or approve the Project with conditions because the Project contains lands with leased Federal coal. This EIS will assist OSMRE in preparing a recommendation to ASLM to approve, disapprove, or approve with conditions the Federal mining plan modification. Signal Peak, the current mine operator, must obtain approval from ASLM to access and recover the Federal coal reserves in Federal Coal Lease MTM 97988.

Preliminary Proposed Project and Alternatives

The Project as proposed in 2015 allowed for 475 acres of additional surface disturbance and recovery of an additional 37.5 Mt of recoverable Federal coal, extending the LOM by 11.5 years. If approved by ASLM, the proposed mining plan modification under review in this EIS would allow for an additional 249 acres of additional surface disturbance, recovery of an additional 30.6 Mt of Federal coal, and extend the LOM by approximately 8 to 10 years. Signal Peak started operation in 1991 and could continue to operate until approximately 2032 under the proposed Federal mining plan modification, depending on production rates. The EIS will evaluate the proposed action alternative, a no-action alternative, and at least one additional alternative that would result in lower greenhouse gas emissions than the proposed action.

Summary of Expected Impacts

OSMRE has completed internal scoping and identified preliminary analysis issues that will be evaluated in the EIS. Reasonably foreseeable effects of mining Federal coal will be evaluated for the following resources:

- Air Quality, including air pollutants and related values such as visibility (haze) and atmospheric deposition
- Combustion of greenhouse gases as it relates to climate change
- Surface water and groundwater quality and quantity (including impacts to wetlands)
- Socioeconomics
- Environmental Justice
- Federally listed threatened/endangered species
- Geology
- Soils
- Cultural Resources
- Visual Resources
- Wildlife
- Transportation and Electrical Transmission
- Land Use and Realty
- Topography and Physiography
- Solid and Hazardous Materials
- Human Health
- Vegetation (including noxious weeds and invasive species)
- Noise and Vibration

Anticipated Permits and Authorizations

ASLM action on the Federal mining plan modification.

Schedule for the Decision-Making Process

OSMRE anticipates signing the Record of Decision in early 2025, and that ASLM will make a decision on the Federal mining plan modification in Spring 2025.

Public Scoping Process

This notice of intent initiates the scoping process, which guides the development of the EIS. In addition to this notice and the project web page on OSMRE's website at <https://www.osmre.gov/laws-and-regulations/nepa/projects>, interested stakeholders, agencies, and Tribes will be notified of the 30-day comment period via mailed letters. All public scoping comments must be submitted by email or by hard copy mail to the addresses listed under **ADDRESSES**. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made public at any time. While you may request in your comment to withhold your personal identifying information from public review, OSMRE cannot guarantee that this will occur.

The project web page includes the description of the Project as submitted by Signal Peak, a map of the proposed mining area, and information about how to submit comments on issues or

concerns related to the Project that may need to be analyzed in the EIS.

OSMRE will review public scoping comments and prepare a scoping summary report. The scoping summary report will be used by OSMRE to identify issues for further analysis, resources and issues that can be dismissed from detailed analysis because they are not present or not affected, and potential alternatives to be analyzed. The scoping summary report will be made available to the public as an appendix to the draft EIS.

Request for Identification of Potential Alternatives, Information, and Analyses Relevant to the Proposed Action

In addition to comments concerning the scope of the EIS analysis, commenters are encouraged to identify relevant information, studies, and analyses that would assist the Department in making its decision and identifying potential alternatives to the Project.

Lead and Cooperating Agencies

OSMRE is the lead agency for this EIS, and the Bureau of Land Management is a cooperating agency. MDEQ has been invited to be a cooperating agency on this EIS. Other Federal agencies, State, Tribal, and local governments with jurisdiction by law or special expertise that are interested in participating in the preparation of this EIS should contact the above mentioned NEPA Project Manager.

Decision Maker

Assistant Secretary of Land and Minerals Management.

Nature of Decision To Be Made

Informed, in part, by the EIS analysis, OSMRE will make a recommendation to ASLM about the Federal mining plan modification associated with the Federal coal tracts included in Federal Coal Lease MTM 97988. ASLM will consider OSMRE's recommendation and decide whether the mining plan modification will be approved, disapproved, or approved with conditions. OSMRE's recommendation to ASLM is based, at a minimum, on the documentation specified at 30 CFR 746.13.

David Berry,

Regional Director, Unified Regions 5, 7–11.

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