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DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

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Notice of Intent to Initiate Public Scoping and Prepare an Environmental Impact Statement for the San Juan Mine Deep Lease Extension Mining Plan Modification

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

ACTION: Notice of intent to initiate public scoping and prepare an Environmental Impact Statement (EIS).

SUMMARY: We, the Office of Surface Mining Reclamation and Enforcement (OSMRE), are notifying the public that we intend to prepare a draft environmental impact statement (EIS) to evaluate the impacts of alternatives relating to the San Juan Coal Company's proposed mining plan modification for the Deep Lease Extension (DLE). The EIS will analyze the direct, indirect, and cumulative impacts of the Company's DLE mining plan modification, Federal Coal Lease NM-99144, at the existing San Juan Mine. The EIS will also analyze the effects of coal combustion at the Public Service Company of New Mexico's San Juan Generating Station (SJGS or the Generating Station). OSMRE is soliciting public comments on the proposed Project, scope of the EIS, and the significant issues that should be analyzed in the EIS.

DATES:

Comments: We will accept comments received or postmarked on or before [INSERT DATE 45 DAYS FROM THE DATE OF PUBLICATION IN THE **FEDERAL REGISTER**]. Any comments that we receive after the closing date may not be considered.

Scoping Meetings: We will hold public scoping open houses at the following times and locations during the scoping period:

- Monday, April 10th from 5:00 p.m. to 8:00 p.m. at the Indian Pueblo Cultural Center at 2401 12th St. NW, Albuquerque, New Mexico.
- Tuesday, April 11th from 5:00 p.m. to 8:00 p.m. at the Ute Community Center at 785 Sunset Road, Towaoc, Colorado.
- Wednesday, April 12th, from 5:00 p.m. to 8:00 p.m. at the Shiprock High School approximately a half-mile west on US-64 from US-491 in Shiprock, New Mexico.
- Thursday, April 13th, from 5:00 p.m. to 8:00 p.m. at the Farmington City Civic Center at 200 West Arrington St., Farmington, New Mexico.
- Friday, April 14th, from 4:00 p.m. to 7:00 p.m. at the Durango Community Recreation Center at 2700 Main Avenue, Durango, Colorado.

At the scoping meetings, the public is encouraged to submit resource information, and identify topics to be considered in the development of the EIS. Written and oral comments will be accepted at each meeting.

ADDRESSES:

You may submit written comments by one of the following methods:

E-mail - Comments should be sent to: osm-nepa-nm@osmre.gov.

- Mail/Courier - Written comments should be sent to:

Gretchen Pinkham, OSMRE
c/o Catalyst Environmental Solutions
P.O. Box 56539
Sherman Oaks, CA 91413

At the top of your written submission or in the subject line of your e-mail message, please indicate that the comments are “San Juan Mine EIS Comments.”

We request that you send comments only by one of the methods described above.

FOR FURTHER INFORMATION CONTACT: For further information about the Project and/or to have your name added to the mailing list, contact: Gretchen Pinkham, OSMRE Project Manager, at 303-293-5088 or by email at osm-nepa-nm@osmre.gov. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply to your message during normal business hours.

SUPPLEMENTARY INFORMATION:

- I. Background on the Project
- II. Mining Plan Modification for the DLE
- III. Alternatives and Related Impacts under Consideration
- IV. Public Comment Procedures

I. Background on the Project.

As established by the Mineral Leasing Act of 1920, the Surface Mining Control and Reclamation Act (SMCRA) of 1977, as amended (30 U.S.C. §§ 1201-1328), and the Cooperative agreement between the State of NM and the DOI Secretary in accordance with Section 523(c) of SMCRA, and 30 U.S.C. 1273(c), the Company’s Permit Application Package (PAP) must be reviewed and approved before the Company may conduct underground mining and reclamation operations to develop the DLE Federal Coal Lease NM-99144. The NM Mining and Minerals Division (NM MMD) is the regulatory authority responsible for reviewing and approving PAPs,

and OSMRE is responsible for the oversight of the NM MMD coal program. OSMRE is also responsible for making recommendations to the Assistant Secretary for Land and Minerals Management (ASLM) regarding decisions on proposed mining plan modifications for federally leased coal (30 CFR 476.13). The NM MMD approved the PAP for the DLE on October 22, 1999. OSMRE submitted a mining plan decision document to the ASLM which was approved by the ASLM on January 17, 2008, which included a Finding of No Significant Impact signed by OSMRE in 2007 and the Bureau of Land Management's (BLM) 1998 decision record on the amendment to the 1988 Farmington Resource Management Plan to include the Federal Coal Lease NM-99144 for the San Juan Mine's DLE.

Pursuant to the National Environmental Policy Act (NEPA) of 1969, as amended, 42 United States Code (U.S.C.) §§ 4231-4347; the Council on Environmental Quality's (CEQ) regulations for implementing NEPA, 40 Code of Federal Regulations (CFR) Parts 1500 through 1508; and the Department of the Interior's (DOI) NEPA regulations, 43 CFR Part 46, we, the Office of Surface Mining Reclamation and Enforcement (OSMRE), are notifying the public that we intend to prepare a draft environmental impact statement (EIS) to evaluate the impacts of alternatives relating to the San Juan Coal Company's proposed mining plan modification for the Deep Lease Extension (DLE). Preparation of the EIS will be completed pursuant to the court-approved Voluntary Remand, as approved by the United States District Court for the District of NM on August 31, 2016, in the case entitled *WildEarth Guardians v. U.S. Office of Surface Mining et al.*, Case 1:14-cv-00112-RJ-CG (D. NM 2016). As part of the court-approved Voluntary Remand, OSMRE agreed to prepare an EIS and Mining Plan Decision Document within three years for the San Juan Mine's mining activity within Federal Coal Lease NM-99144, the DLE, beginning in 2008 and continuing through the life of reserves for the DLE. The

San Juan Mine currently delivers approximately 6 million tons per year (tpy) of coal from the DLE and other approved mining areas to the Generating Station and will continue delivering at that rate through 2017. It is anticipated that approximately 3 million tpy of coal from the DLE and other approved mining areas would be delivered to the Generating Station post-2017. Mining activities within the DLE have been ongoing since OSMRE approval in 2008, and continue presently. Per the Voluntary Remand, mining operations within the DLE are allowed to proceed during the development of the EIS.

The above-referenced court order stipulates that the Secretary's approval of the 2008 mining plan modification for the DLE would be vacated if OSMRE does not complete the EIS process and issue a decision by August 31, 2019, absent a court order for good cause shown. As a result, OSMRE has identified a need to re-evaluate its previous mining plan modification recommendation for this area based, in part, on 1) the PAP submitted to OSMRE and NM MMD, and 2) new information regarding potentially affected resources available since the 2008 MPDD approval.

The underground operations at San Juan Mine use longwall mining methods consisting of one longwall miner and continuous miner in the development portion of the Mine. Underground mining occurs within multiple state and federal lease areas at the San Juan Mine; these are generally referred to as the Deep Lease and DLE Areas. Since authorization in 2008, the Company has mined approximately 18 million tons of coal in the DLE. The mine currently employs approximately 360 people. The approved NM MMD permit area would not increase from its present approximate size of 17,726 acres. A total of approximately 15,404 acres of federally owned coal remains within the current San Juan Mine permit area, approximately 4,484 acres of which is within the DLE. The 2008 mining plan modification would not increase any

acres of federal surface lands or any acres of federal coal to the approved permit area, but would authorize the recovery of approximately 36.6 million tons of federal coal from 4,484 acres of federal coal from the DLE. The remaining coal reserves in the DLE and other approved mining areas will allow the mine to continue operating at the anticipated mining rates until approximately 2033. The post-mining land use remains grazing and wildlife habitat.

The Bureau of Land Management (BLM); U.S. Fish and Wildlife Service (USFWS), and NM MMD will cooperate with OSMRE in the preparation of the EIS. Additional Cooperating Agencies may be identified during the scoping process.

OSMRE will also consult the New Mexico State Historic Preservation Officer in compliance with Section 106 of the National Historic Preservation Act (NHPA) of 1966, as amended (54 U.S.C. §§ 300101- 307108), as provided for in 36 CFR § 800.2(d)(3) concurrently with the NEPA process, including the public involvement requirements. Native American tribal consultations will be conducted in accordance with DOI policy. Federal, Tribal, State and local agencies, along with other stakeholders that may be interested in or affected by OSMRE's decision on the Project, are invited to participate in the scoping process and, if eligible, may request or be requested by OSMRE to participate as a cooperating agency.

As part of its consideration of impacts of the Project on threatened and endangered species, OSMRE will consult the USFWS pursuant to Section 7 of the Endangered Species Act (ESA) of 1973, as amended (16 U.S.C. §§ 1531 *et seq.*) and its implementing regulations. The consultation will consider direct and indirect impacts from the proposed Project, including Project related coal combustion emissions generated by SJGS from the combustion of DLE coal.

In addition to compliance with NEPA, NHPA Section 106, and ESA Section 7, all federal actions will be in compliance with applicable requirements of the SMCRA; the CWA, 33 U.S.C.

§§ 1251-1387; the Clean Air Act of 1970, as amended , 42 U.S.C. §§ 7401-7671q; the Native American Graves Protection and Repatriation Act of 1990, as amended, 25 U.S.C. §§ 3001-3013; and Executive Orders relating to Environmental Justice, Sacred Sites, and Tribal Consultation, and other applicable laws and regulations.

II. Mining Plan Modification for the DLE

The Company's mining plan modification provides for continued development of the DLE, Federal Coal Lease NM-99144, within the San Juan Mine permit area. Due to the retirement of coal fired Units 2 and 3 at the Generating Station, the annual production rate of the DLE would be reduced from the current annual production rate of 4 – 6 million tons to an annual production rate of 2 – 3 million tons for approximately 10 – 15 years beginning in 2017. The Generating Station, located approximately 4 miles northeast of Waterflow and 15 miles west of Farmington, NM, is operated by Public Service Company of New Mexico on its own behalf and on behalf of eight other owners. The Generating Station currently operates four coal-fired units which generate 1800 megawatts and provide power to Arizona, NM, Utah, and California. However, Units 2 and 3 will be retired by December 31, 2017. The Generating Station's Units 1 and 4 would remain operational, generating approximately 910 megawatts burning approximately 3 million tons of coal per year. Federal Coal Lease NM-99144 encompasses 4,483.88 acres and includes:

Township 30, North, Range 14 West, NMPM

Section 17: All;

Section 18: All;

Section 19: All;

Section 20: All;

Section 29: All;

Section 30: All;

Section 31: Lot 1 (41.70 acres), Lot 2 (41.21 acres), Lot 3 (40.73 acres), Lot 4 (40.24 acres), N1/2, N1/2S1/2

Upon completion of the EIS and issuance of the Record of Decision, OSMRE will submit a mining plan decision document to the ASLM to recommend approval, disapproval, or approval with conditions of the proposed mining plan modification for the continuation or cessation of the San Juan Mine to mine the DLE within Federal Coal Lease NM-99144 within the three year period required under the Voluntary Remand. The ASLM will decide whether the mining plan modification is approved, disapproved, or approved with conditions.

III. Alternatives and Related Impacts under Consideration.

The analysis in the EIS will address direct, indirect, and cumulative impacts of the Proposed Action and Alternatives. Since the NOI must be published prior to the scoping process, in compliance with 40 CFR 1501.7, OSMRE may need to modify the Proposed Action and Alternatives from those presented in this NOI based on issues raised during scoping. The scoping process provides, among other things, the opportunity for interested parties to identify issues and propose alternative actions. As explained in the DOI regulations for implementing NEPA, the input received during scoping efforts is important to help define the issues for consideration. However, suggestions obtained during scoping are not binding but are only important options for the lead agency to consider (43 CFR 46.235(b)).

Alternatives for the Project that are currently under consideration include:

- (a) Proposed Action Alternative – The DLE as proposed and approved in the PAP and the 2008 Mining Plan Decision Document.
- (b) Alternate Mining Technique, room and pillar and retreat mining – An alternative mining technique alternative would utilize room and pillar and retreat mining methods instead of the current longwall mining technique being utilized in the DLE. This alternative would be analyzed as a variation to the Proposed Action and Current

Mining Activity Alternatives.

- (c) No Action Alternative – as described above, the court-approved Voluntary Remand will vacate the 2008 mining plan modification for the DLE if the EIS and Mining Plan Decision Document are not complete within three years, by August 31, 2019. Therefore, in this instance, the No Action Alternative is to continue with the present course of action (mining) until that action is changed (through vacatur of the mining plan approval). Implementation of the no action alternative would result in the discontinuation of mining activities at San Juan Mine and the final closure and reclamation activities at the Mine. As a consequence of Mine shutdown, the Generating Station would likely cease operations after any stockpiled coal is used. Considering mining activities in the DLE have been ongoing since 2008 and will continue throughout the NEPA process, the baseline conditions for the No Action Alternative will reflect the conditions present in August 2019, when the ASLM has made a decision on the mining plan modification based on OSMRE's recommendation in the mine plan decision document.
- (d) Any environmentally preferable alternatives that may be identified in accordance with 40 CFR Part 1500 and 43 CFR Part 46.

The purpose of the public scoping process is to determine relevant issues that could influence the scope of the environmental analysis, including alternatives, and guide the process for developing the EIS and related compliance efforts. The final range of reasonable alternatives to be considered will be determined based, in part, on the issues raised during the scoping process.

At present, OSMRE has identified the following preliminary issues and potential impacts:

- Federally listed threatened and endangered species, including but not limited to the

Razorback sucker (*Xyrauchen texanus*), Colorado pikeminnow (*Ptychocheilus lucius*), and Southwestern Willow Flycatcher (*Empidonax traillii extimus*);

- Air quality and climate change;
- Surface and ground water resources (including potential wetlands and floodplains);
- Environmental Justice considerations;
- Cultural and historic resources;
- Biological resources (including wildlife, fish, and vegetation);
- Visual resources;
- Public health and safety;
- Land use and recreational resources;
- Transportation and access;
- Socioeconomics; and
- Noise and vibration.

IV. Public Comment Procedures.

In accordance with the CEQ's regulations for implementing NEPA and the DOI's NEPA regulations, OSMRE solicits public comments on the scope of the EIS and significant issues that should be addressed in the EIS.

Written comments, including email comments, should be sent to OSMRE at the addresses given in the **ADDRESSES** section of this Notice. Comments should be specific and pertain only to the issues relating to the Project and EIS. OSMRE will include all comments in the project record.

If you would like to be placed on the mailing list to receive future information, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**, above.

Navajo and Ute interpreters will be present at meetings on the Navajo and Ute Mountain Ute Reservations, respectively.

Scoping Meetings

See **DATES** section above for the dates and times of the public scoping meetings. The primary purpose of the meetings and the public comment period is to provide the public with a general understanding of the background of the proposed action and to solicit suggestions and information on the scope of issues and alternatives we should consider when preparing the DEIS. Written and oral comments will be accepted at the meetings. Comments can also be submitted by the methods listed in the **ADDRESSES** section. Once the DEIS is complete and made available for review, there will be additional opportunity for public comment.

Persons needing reasonable accommodations in order to attend and participate in the public scoping meetings should contact the person listed under the **FOR FURTHER INFORMATION CONTACT** section as soon as possible. In order to allow sufficient time to process requests, please make contact no later than one week before the public meeting. Navajo and Ute interpreters will be present at meetings held on the Navajo and Ute Mountain Ute Reservations, respectively.

Availability of Comments

OSMRE will make comments, including name of respondent, address, phone number, e-mail address, or other personal identifying information, available for public review during normal business hours. Comments submitted anonymously will be accepted

and considered; however, those who submit anonymous comments may not have standing to appeal the subsequent decision.

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment – including your personal identifying information – will be publicly available. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

All submissions from organizations or businesses and from individuals identifying themselves as representatives or officials of organizations or businesses will be available for public review to the extent consistent with applicable law.

Dated: February 28, 2017.

David Berry

Regional Director, Western Region

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