

1.0 INTRODUCTION

This EIS¹ analyzes the environmental impacts of leasing a tract of federal coal reserves adjacent to the Cordero Rojo Mine, an operating surface coal mine in the east-central PRB of Wyoming. CMC, the operator of the Cordero Rojo Mine, filed an application to lease the federal coal included in a maintenance coal tract under the regulations at 43 CFR 3425, Leasing On Application. The application was reviewed by BLM, Wyoming State Office, Division of Minerals and Lands, which determined that the lease application meets the regulatory requirements for a lease by application, or LBA. The tract is referred to as the Maysdorf LBA Tract. Figure 1-1 shows the Maysdorf LBA Tract as applied for by CMC, other currently pending LBA tracts, and the existing federal leases, including previously leased LBA tracts, in the Wyoming PRB.

A separate document, entitled *Supplementary Information on the Affected Environment in the General Analysis Area for the Maysdorf Coal Lease Application EIS*, has been prepared to provide more detailed information on the affected environment in the general analysis area. Copies of the supplementary information document are available on request and can be viewed at the BLM offices in Casper and Cheyenne.

1.1 Background

On September 20, 2001, CMC filed an application with the BLM for federal coal reserves in a tract located west of and immediately adjacent to the Cordero Rojo Mine in Campbell County, Wyoming, approximately 15 miles south-southeast of Gillette, Wyoming (Figure 1-1). The tract, which was originally referred to as the Mt. Logan LBA Tract, was assigned case file number WYW154432. The federal coal reserves were applied for as a maintenance tract for the Cordero Rojo Mine. The Cordero Rojo Mine is operated by CMC, a directly held subsidiary of Rio Tinto Energy America (formerly Kennecott Energy and Coal Company). CMC subsequently renamed the tract the Maysdorf LBA Tract and submitted modifications to the application to the BLM, which decreased the lease area and coal volume, on May 21, 2002; July 1, 2004; and November 8, 2004. BLM reviewed the November 2004 tract modification and notified the company by letter, dated May 20, 2005, that their application had been revised.

These federal coal lands are located within the Powder River Federal Coal Region, which was decertified in January 1990. Although the Powder River Federal Coal Region is decertified, the PRRCT, a federal/state advisory board established to develop recommendations concerning management of federal coal in the region, has continued to meet regularly and review all federal lease applications in the region. The PRRCT reviewed this maintenance

¹ Refer to page xv for a list of abbreviations and acronyms used in this document.

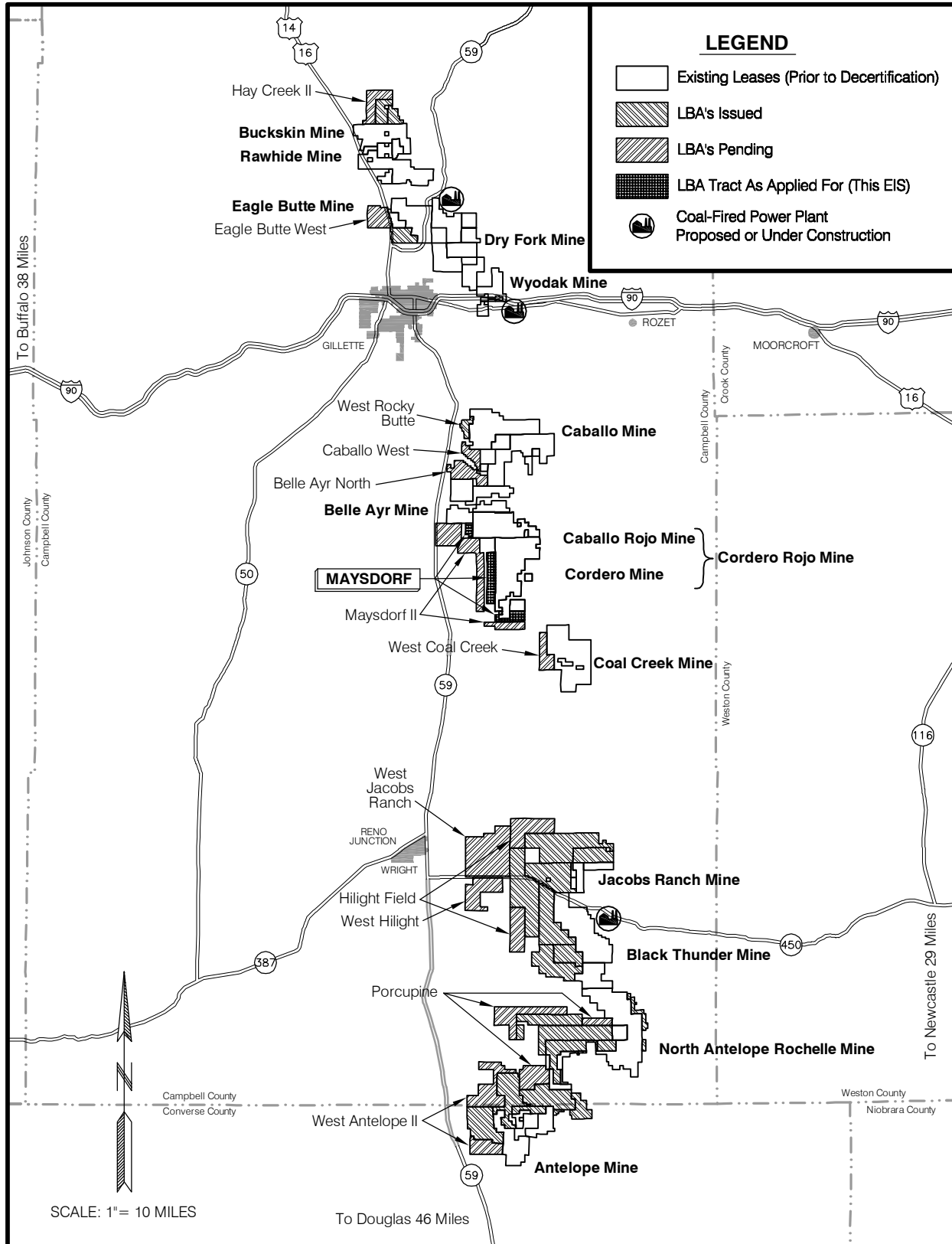


Figure 1-1. General Location Map with Federal Coal Leases and LBA Tracts.

coal lease application at public meetings held on May 30, 2002, in Casper, Wyoming and on April 27, 2005, in Gillette, Wyoming. The PRRCT recommended that the BLM continue to process the Maysdorf lease application at both meetings.

In order to process an LBA, the BLM must evaluate the quantity, quality, maximum economic recovery, and fair market value of the federal coal and fulfill the requirements of NEPA by evaluating the environmental impacts of leasing the federal coal. BLM does not authorize mining by issuing a lease for federal coal, but the impacts of mining the coal are considered in this EIS because it is a logical consequence of issuing a maintenance lease to an existing mine. This EIS has been prepared to evaluate the site-specific and cumulative environmental impacts of leasing and developing the federal coal included in the Maysdorf application area. BLM will use the analysis in this EIS to decide whether to hold a competitive, sealed-bid lease sale for the tract as applied for, hold a competitive, sealed-bid lease sale for a modified tract, or reject the lease application and not offer the tract for sale at this time. A Record of Decision will be issued and, if the decision is to offer the tract for lease, a sale will be held. If a sale is held, the bidding at the sale would be open to any qualified bidder; it would not be limited to the applicant.

If the lease sale is held, a lease would be issued to the highest bidder at the sale if a federal sale panel determines that the high bid meets or exceeds the fair market value of the coal as

determined by BLM's economic evaluation and if the U.S. Department of Justice determines that there would be no antitrust violations if a lease is issued to the high bidder.

In return for receiving a lease, a lessee must pay the federal government a bonus equal to the amount it bids at the time the lease sale is held (the bonus can be paid in five yearly installments), make annual rental payments to the federal government, and make royalty payments to the federal government when the coal is mined. Federal bonus, rental, and royalty payments are equally divided with the state in which the lease is located.

Other agencies may use this analysis to make decisions related to leasing and mining the federal coal in this tract. OSM, WDEQ/LQD and the Wyoming State Planning Office are cooperating agencies on this EIS. OSM has primary responsibility to administer Federal programs that regulate surface coal mining operations and will use this EIS to make decisions related to the approval of the MLA mining plan if the tract is leased. WDEQ has entered into a cooperative agreement with the Secretary of the Interior to regulate surface coal mining operations on federal and non-federal lands within the State of Wyoming.

Since decertification of the Powder River Federal Coal Region, 17 federal coal leases have been sold at competitive sealed-bid sales and three exchanges of federal coal in the Wyoming portion of the Powder River Federal Coal Region have been

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completed (Table 1-1). This is the first application for a maintenance coal tract submitted by the Cordero Rojo Mine since decertification (Table 1-1 and Figure 1-1).

Table 1-2 summarizes the 12 lease applications that are currently pending.

The Maysdorf LBA Tract as applied for and the existing federal coal leases in the adjacent Cordero Rojo Mine are shown in Figure 1-2. As applied for, the Maysdorf LBA Tract consists of three separate blocks of federal coal and includes approximately 2,219.4 acres with an estimated 234.8 million tons of in-place coal reserves. Not all of the coal included in the Maysdorf LBA Tract is considered to be recoverable at this time. CMC estimates that approximately 4.5 million tons of the coal included in the tract are located within the BNSF & UP railroad ROW. The coal underlying the ROW is not considered to be recoverable at this time because the cost that would be associated with moving the railroad would make it economically unfeasible to recover the underlying coal. In addition, a small portion of the tract is located within a “no-coal” zone, where coal-forming sediments were either not deposited or were eroded away after deposition. The coal within the ROW that cannot be recovered and the extent of the “no-coal” zone will be considered by BLM in determining the fair market value of the federal coal included in the LBA tract. CMC estimates that approximately 230.3 million tons of in-place coal reserves are mineable and that approximately 216.48 million tons of coal would be

recovered from the Maysdorf LBA Tract as applied for.

The Cordero Rojo Mine is comprised of the former Cordero Mine and the contiguous former Caballo Rojo Mine. Rio Tinto Energy America (formerly Kennecott Energy and Coal Company), the parent company of CMC (the operator of the former Cordero Mine), purchased 100 percent of the stock of CRI (the operator of the former Caballo Rojo Mine) on February 19, 1997. The CMC Mine, as currently permitted, includes 8,517 acres and originally contained approximately 593 million tons of mineable coal reserves. The CRI Mine, as currently permitted, includes 7,664 acres and originally contained approximately 493 million tons of mineable coal reserves. As of January 1, 2006, an estimated 388.1 million tons of in-place coal reserves remained at the Cordero Rojo Mine; CMC estimates that approximately 364.8 million tons of those remaining reserves would be recoverable. Cordero Rojo Mine’s currently approved (by WDEQ/AQD on April 13, 2004) air quality permit allows up to 65 million tons of coal per year to be mined through year 2008. The Cordero Rojo Mine produced approximately 38.6 million tons of coal in 2000, 43.5 million tons of coal in 2001, 38.2 million tons of coal in 2002, 36.1 million tons of coal in 2003, 38.8 million tons of coal in 2004, and 37.5 million tons of coal in 2005. Cordero Rojo Mine personnel are working with the WDEQ/LQD to consolidate the CMC and CRI mining permits into a single mining permit for the Cordero Rojo Mine, which will include approximately 16,804 acres.

Table 1-1. Leases Issued and Exchanges Completed Since Decertification,
Powder River Basin, Wyoming.

Leases Issued			
LBA Name (Lease Number)			
Applicant Mine			
Current Lessee	Acres	Mineable Tons	Successful
Effective Date	Leased¹	of Coal¹	Bid
Jacobs Ranch LBA (WYW117924) Jacobs Ranch Mine Jacobs Ranch Coal Co. 10/1/1992	1,708.620	147,423,560	\$20,114,930.00
West Black Thunder LBA (WYW118907) Black Thunder Mine Thunder Basin Coal Co. 10/1/1992	3,492.495	429,048,216	\$71,909,282.69
North Antelope/Rochelle LBA (WYW119554) North Antelope & Rochelle Mines Powder River Coal Co. 10/1/1992	3,064.040	403,500,000	\$86,987,765.00
West Rocky Butte LBA (WYW122586) No Existing Mine ² Caballo Coal Co. 1/1/1993	463.205	56,700,000	\$16,500,000.00
Eagle Butte LBA (WYW124783) Eagle Butte Mine Foundation Wyoming Land Co. 8/1/1995	1,059.180	166,400,000	\$18,470,400.00
Antelope LBA (WYW128322) Antelope Mine Antelope Coal Co. 2/1/1997	617.200	60,364,000	\$9,054,600.00
North Rochelle LBA (WYW127221) North Rochelle Mine Ark Land Co. 1/1/1998	1,481.930	157,610,000	\$30,576,340.00
Powder River LBA (WYW136142) North Antelope Rochelle Mine Powder River Coal Co. 9/1/1998	4,224.225	532,000,000	\$109,596,500.00
Thundercloud LBA (WYW136458) Jacobs Ranch Mine Thunder Basin Coal Co., LLC 1/1/1999	3,545.503	412,000,000	\$158,000,008.50
Horse Creek LBA (WYW141435) Antelope Mine Antelope Coal Co. 12/1/2000	2,818.695	275,577,000	\$91,220,120.70
North Jacobs Ranch LBA (WYW146744) Jacobs Ranch Mine Jacobs Ranch Coal Co. 5/1/2002	4,982.240	537,542,000	\$379,504,652.00

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Table 1-1. Leases Issued and Exchanges Completed Since Decertification, Powder River Basin, Wyoming (Continued).

LBA Name (Lease Number) Applicant Mine Current Lessee Effective Date	Acres Leased¹	Mineable Tons of Coal¹	Successful Bid
NARO South LBA (WYW154001) North Antelope Rochelle Mine BTU Western Resources, Inc. 9/1/2004	2,956.725	297,469,000	\$274,117,684.00
West Hay Creek LBA (WYW151634) Buckskin Mine Kiewit Mining Properties, Inc. 1/1/2005	921.158	142,698,000	\$42,809,400.00
Little Thunder LBA (WYW150318) Black Thunder Mine Ark Land LT Co. 3/1/2005	5,083.500	718,719,000	\$610,999,949.80
West Antelope LBA (WYW151643) Antelope Mine Antelope Coal Co. 3/1/2005	2,809.130	194,961,000	\$146,311,000.00
NARO North LBA (WYW150210) North Antelope Rochelle Mine BTU Western Resources, Inc. 3/1/2005	2,369.380	324,627,000	\$299,143,785.00
West Roundup LBA (WYW151134) North Rochelle Mine West Roundup Resources, Inc 5/1/2005	2,812.51	327,186,000	\$317,697,610.00
TOTALS	44,409.731	5,183,824,776	\$2,683,014,027.69

Exchanges Completed

Exchange Name Case File Number Exchange Proponent Exchange Type Effective Date	Acres Exchanged	Mineable Tons of Coal	Federal Coal Exchanged for:
EOG (Belco) I-90 Lease Exchange WYW150152 EOG Resources (formerly Belco) ³ I-90 Lease Exchanged for New Lease 4/1/2000	599.170	106,000,000	Lease Rights to Belco I-90 Lease (WYW0322794)
Pittsburg & Midway Coal Exchange WYW148816 Pittsburg and Midway Coal Mining Co. Private Land Exchanged for Federal Coal 1/27/2005	2,045.530	84,200,000	6,065.77 acres of land and some minerals in Lincoln, Carbon, and Sheridan Counties, Wyoming.
Gold Mine Draw Lease Exchange WYW0321779, WYW154001 Powder River Coal Co. AVF Lease Exchanged for New Lease 6/25/2006	623.000	47,700,000	Lease rights to 921.60 acres of leased federal coal underlying an AVF.
TOTALS	3,267.700	237,900,000	

¹ Information from Sale Notice.

² The West Rocky Butte LBA was originally leased to Northwestern Resources Co.

³ The EOG Resources Belco Exchange lease is now owned by the Buckskin Mine.

Table 1-2. Pending LBAs and Exchanges, Powder River Basin, Wyoming.

Pending LBAs				
LBA Name Lease Number Applicant Mine	Application Date	Acres as Applied for	Estimated as Applied for Coal (mmt)	Status
Maysdorf (formerly Mt. Logan) WYW154432 Cordero Rojo	9/20/2001 Modified 11/8/2004	2,219.39	230.30 ¹	PRRCT reviewed 5/30/2002 & 4/27/2005 FEIS in review
Eagle Butte West (formerly West Extension) WYW155132 Eagle Butte	12/28/2001 Modified 10/16/2003	1,397.64	228.00 ²	PRRCT reviewed 5/30/2002 & 4/27/2005 FEIS in preparation
Belle Ayr North WYW161248 Belle Ayr	7/06/2004	1,578.76	200.00 ²	PRRCT reviewed 4/27/2005
West Antelope II WYW163340 Antelope	4/06/2005	4,108.60	429.70 ³	PRRCT reviewed 4/27/2005
Hilight Field WYW164812 Black Thunder	10/07/2005	4,590.19	588.20 ²	PRRCT reviewed 4/19/2006
West Hilight Field WYW172388 Black Thunder	1/17/2006	2,370.52	428.00 ²	PRRCT reviewed 4/19/2006
West Coal Creek WYW172585 Coal Creek	2/10/2006	1,151.26	57.00 ²	PRRCT reviewed 4/19/2006
Caballo West WYW172657 Caballo	3/15/2006	777.48	87.52 ¹	PRRCT reviewed 4/19/2006
West Jacobs Ranch WYW172685 Jacobs Ranch	3/24/2006	5,944.37	956.00 ³	PRRCT reviewed 4/19/2006
Hay Creek II WYW172684 Buckskin	3/24/2006	1,447.00	148.00 ¹	PRRCT reviewed 4/19/2006
Maysdorf II WYW173360 Cordero Rojo	9/1/2006	4,653.840	483.00 ³	PRRCT reviewed 1/18/2007
Porcupine WYW173408 North Antelope Rochelle	9/29/2006	5,111.390	598.00 ¹	PRRCT reviewed 1/18/2007
TOTALS		35,350.44	4,433.72	

¹ Estimated tons of mineable coal as reported in the lease application.

² Estimated tons of recoverable coal as reported by the applicant.

³ Estimated tons of in-place coal as reported in the lease application.

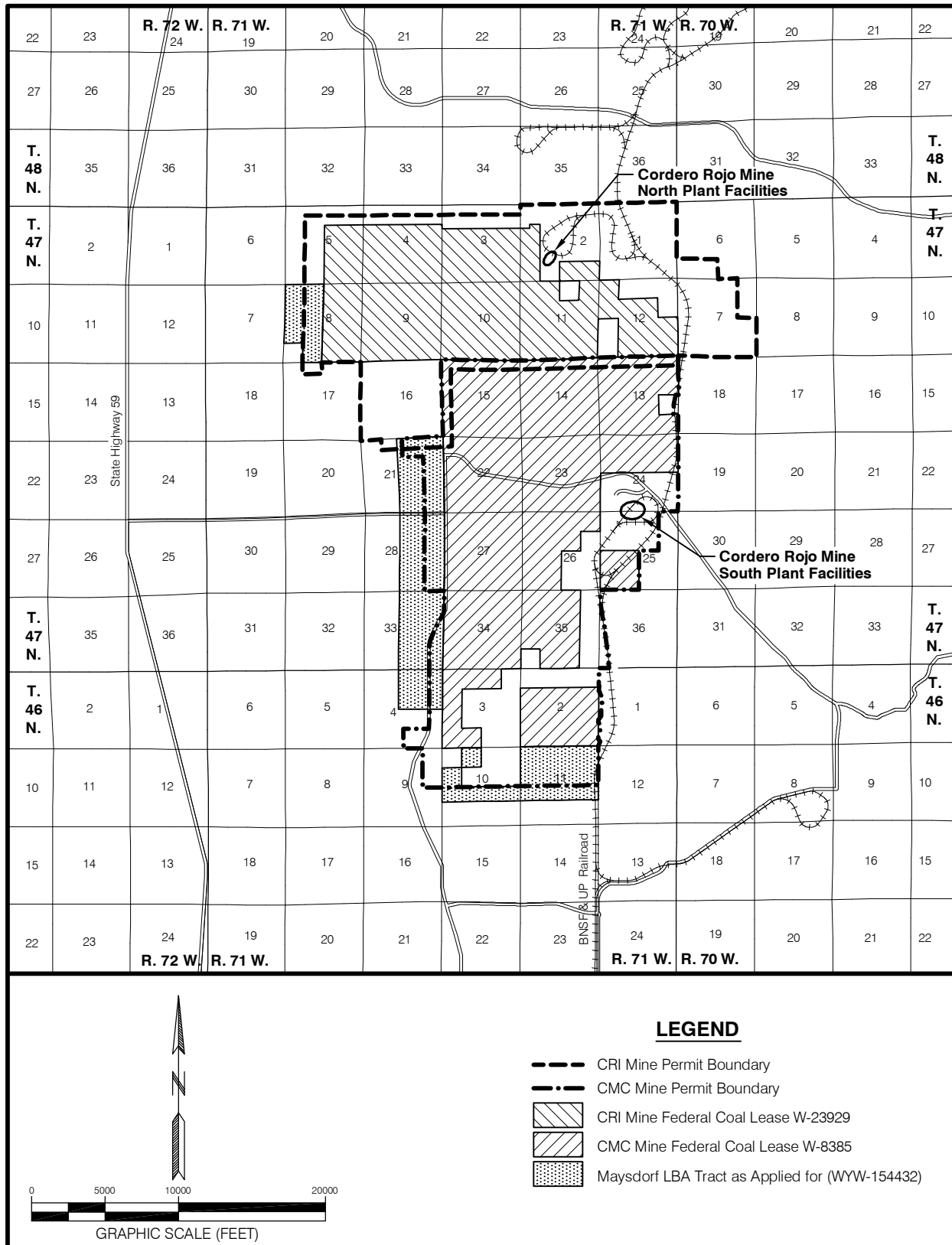


Figure 1-2. CMC and CRI Mines' Federal Coal Leases and Maysdorf LBA Tract as Applied for.

As discussed above, the Maysdorf LBA Tract as applied for consists of three separate blocks. The northern block is contiguous with both the Cordero Rojo Mine and the Belle Ayr Mine, owned by Foundation Coal West, Inc. (Figure 1-1). The central and southern blocks are contiguous with only the Cordero Rojo Mine. Portions of all three blocks lie within the current mining permit boundaries of the CMC and CRI Mines (Figure 1-2). The area applied for is substantially similar to areas included in the adjacent mines, for which detailed site-specific environmental data have been collected and for which environmental analyses have previously been prepared to secure the existing leases and necessary mining permits.

The surface of the Maysdorf LBA Tract is owned by the United States of America; CMC; CRI; Barbara and Christopher Stock; the Bruce Haight and Jilliane Haight Trusts; Leslie and Sandra Haight, et al.; the Norma Duvall Trust; and Foundation Wyoming Land Company. The federally-owned surface is administered by the BLM. Leslie and Sandra Haight, et al. includes Bruce and Jilliane Haight, Barbara and Christopher Stock, Mark and Deena Haight, and Rio Tinto, who jointly own one tract of land included in the lease application area. See Chapter 3, Section 3.11 for additional information about surface ownership in the tract.

Current land uses of the tract include grazing by domestic animals and wildlife, and oil and gas production.

The mining method would be a combination of truck and shovel and dragline, which are the mining methods currently in use at this mine. The coal would be used primarily for electric power generation.

After mining, the land would be reclaimed to a rangeland function suitable for use by livestock and wildlife as is the current practice at the Cordero Rojo Mine. Industrial postmining land uses, which include, but are not limited to, oil wells, pipelines, roads, and utility easements, will also be reestablished as required.

1.2 Purpose and Need for Action

BLM administers the federal coal leasing program under the Mineral Leasing Act of 1920. A federal coal lease grants the lessee the exclusive right to obtain a mining permit for, and to mine coal on, the leased tract subject to the terms of the lease, the mining permit, and applicable state and federal laws. Before a new lease can be mined, the lessee must obtain approval of a detailed mining and reclamation plan.

This EIS is being prepared in response to an application BLM received from an existing mine, the Cordero Rojo Mine, to lease a tract of federal coal in the Wyoming PRB. In response to this coal lease application, the BLM must decide whether to hold a competitive, sealed-bid lease sale for the tract as applied for, hold a competitive sealed-bid lease sale for a modified tract, or reject the current lease application

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and not offer the tract for sale at this time.

CMC has applied for the coal reserves in the Maysdorf LBA Tract in order to extend the life of the Cordero Rojo Mine. Based upon the current projected annual coal production over the life of the mine, the applicant currently estimates that the existing recoverable reserves at the Cordero Rojo Mine will be depleted within approximately nine years at an average production rate of approximately 40 mmtpy. According to the most recent information from CMC, beginning year 2006, the Cordero Rojo Mine plans to produce an average of approximately 40 mmtpy for 15 years, if they acquire a lease for the Maysdorf LBA Tract. Thus, acquiring the new lease would enable the mine to increase its productive life by six years. If the LBA tract is leased to the applicant as a maintenance tract, the mining and reclamation permit for the adjacent Cordero Rojo Mine would have to be amended to include the new lease area before it could be disturbed. This process takes several years to complete. CMC is applying for federal coal reserves now so that they can negotiate new contracts and then complete the permitting process in time to meet anticipated new contract requirements.

As discussed above, the purpose of CMC's application is to allow the Cordero Rojo Mine access to a continuing supply of low sulfur compliance coal, which it can continue to sell to power plants for the purpose of electric power generation. Continued leasing of PRB

coal enables coal-fired power plants to meet CAA requirements without constructing new plants, revamping existing plants, or switching to existing alternative fuels, which would probably significantly increase power costs for individuals and businesses.

A primary goal of the National Energy Policy is to add energy supplies from diverse sources, including domestic oil, gas, and coal, as well as hydropower and nuclear power. BLM recognizes that the continued extraction of coal is essential to meet the nation's future energy needs. As a result, private development of federal coal reserves is integral to the BLM coal leasing program under the authority of the MLA, as well as FLPMA and FCLAA. The coal leasing program, managed by BLM, encourages the development of domestic coal reserves and reduction of the U.S. dependence on foreign sources of energy. As a result of the leasing and subsequent mining and sale of federal coal resources in the PRB, the public receives lease bonus payments, lease royalty payments, and a reliable supply of low sulfur coal for power generation.

This EIS analyzes the environmental impacts of issuing a federal coal lease and mining the federal coal in the Maysdorf maintenance coal lease application as required by NEPA and associated rules and guidelines. A decision to hold a competitive sale and issue a lease for the lands in this application is a prerequisite for mining but it is not the enabling action that would allow mining to begin. The BLM does not authorize

mining operations by issuing a lease. After a lease has been issued but prior to mine development, the lessee must file a permit application package with the WDEQ/LQD and OSM for a surface mining permit and approval of the MLA mining plan. An analysis of a detailed site-specific mining and reclamation plan occurs at that time. Authorities and responsibilities of the BLM and other concerned regulatory agencies are described in the following sections.

1.3 Regulatory Authority and Responsibility

The Maysdorf maintenance coal lease application was submitted and will be processed and evaluated under the following federal authorities:

- MLA, as amended;
- Multiple-Use Sustained Yield Act of 1960;
- NEPA;
- FCLAA;
- FLPMA; and
- SMCRA.

The BLM is the lead agency responsible for leasing federal coal lands under the MLA as amended by FCLAA and is also responsible for preparation of this EIS to evaluate the potential environmental impacts of issuing a coal lease.

OSM is a cooperating agency on this EIS. After a federal coal lease is issued, SMCRA gives OSM primary responsibility to administer programs that regulate surface coal mining operations and the surface effects of underground coal mining operations. WDEQ is also a cooperating agency

on this EIS. Pursuant to Section 503 of SMCRA, the WDEQ developed, and in November 1980 the Secretary of the Interior approved, a permanent program authorizing WDEQ to regulate surface coal mining operations and surface effects of underground mining on nonfederal lands within the State of Wyoming. In January 1987, pursuant to Section 523(c) of SMCRA, WDEQ entered into a cooperative agreement with the Secretary of the Interior authorizing WDEQ to regulate surface coal mining operations and surface effects of underground mining on federal lands within the state.

Pursuant to the cooperative agreement, a federal coal lease holder in Wyoming must submit a permit application package to OSM and WDEQ/LQD for any proposed coal mining and reclamation operations on federal lands in the state. WDEQ/LQD reviews the permit application package to insure the permit application complies with the permitting requirements and the proposed coal mining operation meets the performance standards of the approved Wyoming program. OSM, BLM, and other federal agencies review the permit application package to insure it complies with the terms of the coal lease, the MLA, NEPA, and other federal laws and their attendant regulations. If the permit application package does comply, WDEQ issues the applicant a permit to conduct coal mining operations. OSM recommends approval, approval with conditions, or disapproval of the MLA mining plan to the Assistant Secretary of the Interior, Land and Minerals Management. Before the

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MLA mining plan can be approved, the BLM must concur with this recommendation.

If a proposed LBA tract is leased to an existing mine, the lessee is required to revise its coal mining permit prior to mining the newly-leased coal, following the processes outlined above. As a part of that process, a detailed new plan would be developed showing how the newly-leased lands would be mined and reclaimed. The area of mining disturbance would be larger than the newly-leased area to allow for activities such as overstripping, matching reclaimed topography to undisturbed topography, constructing flood control and sediment control facilities, and related activities. Specific impacts that would occur during the mining and reclamation of the LBA tract would be addressed in the mining and reclamation plan, and specific mitigation measures for anticipated impacts would be described in detail at that time.

WDEQ enforces the performance standards and permit requirements for reclamation during a mine's operation and has primary authority in environmental emergencies. OSM retains oversight responsibility for this enforcement. Where federal surface or coal resources are involved, BLM has authority in emergency situations if WDEQ or OSM cannot act before environmental harm and damage occurs. In preparing this EIS, BLM also has a responsibility to consult with and obtain the comments and assistance of other state and federal agencies that have jurisdiction by law or

special expertise with respect to potential environmental impacts.

Appendix A presents other federal and state permitting requirements that must be satisfied to mine this LBA tract.

1.4 Relationship to BLM Policies, Plans, and Programs

In addition to the federal acts listed under Section 1.3, guidance and regulations for managing and administering public lands, including the federal coal lands in the CMC application, are set forth in 40 CFR 1500 (Protection of Environment), 43 CFR 1601 (Planning, Programming, Budgeting), and 43 CFR 3400 (Coal Management).

Specific guidance for processing applications is provided by BLM Manual 3420, Competitive Coal Leasing (BLM 1989) and the 1991 *Powder River Regional Coal Team Operational Guidelines For Coal Lease-By-Applications* (BLM 1991). The *National Environmental Policy Act Handbook* (BLM 1988) has been followed in developing this EIS.

1.5 Conformance with Existing Land Use Plans

FCLAA requires that lands considered for leasing be included in a comprehensive land use plan and that leasing decisions be compatible with that plan. The BLM *Approved Resource Management Plan for Public Lands Administered by the Bureau of Land Management Buffalo Field Office* (BLM 2001a) [an update of the *Buffalo Resource Area Resource Management*

Plan (BLM 1985)] governs and addresses the leasing of federal coal in Campbell County.

The major land use planning decision that BLM must make concerning the federal coal resources is a determination of which federal coal lands are acceptable for further consideration for leasing. There are four screening procedures that BLM uses to identify these coal lands. These screening procedures require BLM to:

- estimate development potential of the coal lands;
- apply the unsuitability criteria listed in the regulations at 43 CFR 3461;
- make multiple land use decisions that eliminate federal coal deposits from consideration for leasing to protect other resource values; and
- consult with surface owners who meet the criteria defined in the regulations at 43 CFR 3400.0-5 (gg) (1) and (2).

Only those federal coal lands that pass these screens are given further consideration for leasing. BLM has applied these coal screens to federal coal lands in Campbell County several times, starting in the early 1980s. Most recently, in 1993, BLM began the process of reapplying these screens to federal coal lands in Campbell, Converse, and Sheridan Counties. This analysis was adopted in the 2001 BLM Buffalo Field Office RMP update (BLM 2001a). The results of this analysis are included as Appendix D of the 2001 BLM Buffalo Field Office RMP update,

which can be viewed in the 2001 NEPA documents section on the Wyoming BLM website at <http://www.wy.blm.gov>.

A coal tract that is acceptable for further consideration for leasing must be located within an area that has been determined to have coal development potential (43 CFR 3420.1-4(e)(1)). The Maysdorf coal lease application is within the area identified as having coal development potential by the BLM in the coal screening analyses published in 2001 BLM Buffalo Field Office planning document.

The coal mining unsuitability criteria listed in the federal coal management regulations (43 CFR 3461) have been applied to high to moderate coal development potential lands in the Wyoming PRB. Appendix B of this EIS summarizes the unsuitability criteria, describes the general findings for the 2001 BLM Buffalo Field Office RMP update, and presents a validation of these findings for the Maysdorf LBA Tract.

A multiple land use conflict analysis is completed as part of the coal screening process to identify and “eliminate additional coal deposits from further consideration for leasing to protect resource values of a locally important or unique nature not included in the unsuitability criteria”, in accordance with 43 CFR 3420.1-4(e)(3). The 2001 Buffalo RMP update addresses two types of multiple land use conflicts: municipal/residential conflicts and multiple mineral development (coal versus oil and gas) conflicts. The Maysdorf LBA Tract

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does not lie within or in proximity to an identified buffer zone surrounding an existing community. Therefore, no federal coal lands within the Maysdorf LBA Tract have been eliminated from further consideration for leasing due to municipal/residential conflicts.

The 2001 Buffalo RMP includes two decisions related to multiple mineral development conflicts in Campbell, Converse and Sheridan Counties. With respect to oil and gas leasing in coal mining areas, the RMP update determines that oil and gas tracts that would interfere with coal mining operations would not be offered for lease but that, where possible, oil and gas leases will be issued with specific conditions to prevent a development conflict with coal mining operations. With respect to coal leasing in oil and gas fields, the 2001 Buffalo Update states that coal leasing in producing oil and gas fields would be deferred unless or until coal development would not interfere with the economic recovery of the oil and gas resources, as determined on a case by case basis.

Both conventional and CBNG wells presently exist inside and around the Maysdorf LBA Tract and BLM has evaluated the potential for conflict with the development of oil and gas resources within the Maysdorf LBA Tract (see the Mineral Resources discussion in Chapter 3, Section 3.3). BLM's policy on conflicts between coal and CBNG development is to optimize the recovery of both resources and ensure that the public receives a reasonable return, as explained in BLM Instruction Memorandum No. 2006-153 (BLM 2006a).

Surface owner consultation was completed during the preparation of coal screening analyses published in 2001 Buffalo RMP. Qualified private surface owners in the Gillette coal development potential area were provided the opportunity to express their preference for or against surface mining of federal coal under their private surface estate during both these screenings (see Chapter 7 for a definition of a "qualified surface owner"). No federal coal lands within the Maysdorf LBA Tract were eliminated from further consideration for leasing due to qualified surface owner conflicts at that time. The current surface ownership of the LBA tract is discussed in Section 1.1 of this chapter and in Section 3.11. Private surface owners who are determined to be qualified must consent to leasing before BLM can offer the underlying federal coal for lease. BLM has determined that one owner of surface lands included in the Maysdorf LBA Tract meets the requirements listed under 43 CFR 3400.0-5gg and is considered to be a qualified surface owner. In the event that surface owner does not consent to leasing, their land will be removed from the tract prior to holding a lease sale.

In summary, the lands in the CMC coal lease application are considered acceptable for further consideration for leasing, pending completion of the surface owner consultation.

1.6 Consultation and Coordination

Initial Involvement

BLM received the Maysdorf coal lease application on September 20, 2001. The application was initially reviewed by the BLM, Wyoming State Office, Division of Mineral and Lands. The BLM ruled that the application and lands involved met the requirements of regulations governing coal leasing on application (43 CFR 3425).

The BLM Wyoming State Director notified the Governor of Wyoming on December 5, 2001, that CMC had filed a lease application with BLM for the Maysdorf LBA Tract. A notice announcing the receipt of the Maysdorf coal lease application published in the *Federal Register* on April 29, 2002 served as public notice that this coal lease application had been received. Copies of the notice were sent to voting and nonvoting members of the PRRCT, including the governors of Wyoming and Montana, the Northern Cheyenne Tribe, the Crow Tribal Council, OSM, USFWS, National Park Service, and U.S. Geological Survey. In the December 5, 2001 letter to the Governor of Wyoming and in the April 29, 2002 *Federal Register* notice, the tract is referred to as the Mt. Logan LBA Tract. By the time the PRRCT meeting was held on May 30, 2002, CMC had submitted its first modification to the application to the BLM (on May 21, 2002) and renamed the tract the Maysdorf LBA Tract.

The PRRCT reviewed this lease application at public meetings held

on May 30, 2002, in Casper, Wyoming, and on April 27, 2005, in Gillette, Wyoming. CMC presented information about their existing mine and the pending lease application to the PRRCT at those meetings. The PRRCT recommended that the BLM continue to process this application. The major steps in processing an LBA are shown in Appendix C.

The BLM published a Notice of Intent to Prepare an Environmental Impact Statement and Notice of Scoping in the *Federal Register* on February 1, 2005 and in the Gillette News-Record on January 25, 2005 and February 1, 2005. The publications announced the time and location of a public scoping meeting and requested public comment on the application. Letters requesting public comment and announcing the time and location of the public scoping meeting were mailed to all parties on the distribution list in January 2005.

A public scoping meeting was held on February 15, 2005 in Gillette, Wyoming. At the public meeting, the applicant orally presented information about their mine and their need for the coal. The presentation was followed by a question and answer period, during which no oral comments were made. The scoping period extended from February 1 through April 8, 2005, during which time BLM received written comments from three entities.

Chapter 5 provides a list of other federal, state, and local governmental agencies that were consulted in preparation of this EIS and the distribution list for this EIS.

Issues and Concerns

Issues and concerns that have been expressed by the public and government agencies relating to the potential impacts of leasing the Maysdorf LBA Tract, specifically, and to previous coal lease applications in general include:

- potential conflicts with existing conventional oil and gas development and existing and proposed CBNG development;
- cumulative impacts of mineral development to all other resources;
- validity and currency of resource data;
- public access;
- potential impacts to threatened and endangered species and other species of concern;
- potential air quality impacts (including cumulative impacts to visibility);
- potential surface and groundwater quality and quantity impacts;
- potential impacts of and possible mitigation for nitrogen oxide emissions resulting from blasting of coal and overburden;
- the need to include reasonably foreseeable actions such as the construction and operation of the DM&E railroad and power plants in the cumulative analysis;
- the need to address increasing coal production in the PRB in the cumulative analysis;
- potential impacts on cultural and paleontological resources;
- potential impacts to wetland resources; and

- short- and long-term impacts on aquatic and terrestrial wildlife species and, specifically with respect to the Maysdorf LBA Tract, potential impacts to the aquatic resources of the Belle Fourche River.

Draft EIS

Parties on the distribution list were sent copies of the Draft EIS, and copies were made available for review at the BLM offices in Casper and Cheyenne, Wyoming.

A notice announcing the availability of the Draft EIS was published in the *Federal Register* by the EPA on May 26, 2006. A 60-day comment period on the Draft EIS commenced with publication of the EPA's notice of availability and ended on July 25, 2006. The BLM published a Notice of Availability/Notice of Public Hearing in the *Federal Register* on May 26, 2006. The BLM's *Federal Register* notice announced the date and time of a public hearing, which was held on June 13, 2006 in Gillette, Wyoming. The purpose of the public hearing was to solicit public comments on the Draft EIS and on the fair market value, the maximum economic recovery, and the proposed competitive sale of federal coal from the LBA tract. The BLM also published a notice of public hearing in the *Gillette News-Record* on May 26 and June 2, 2006.

Final EIS and Future Involvement

The BLM received written comments from five entities, which are included, with agency responses, in Appendix

H. Availability of the Final EIS will be published in the *Federal Register* by the BLM and the EPA. After a 30-day availability period, BLM will make a decision to hold or not to hold a competitive lease sale for the federal coal in the Maysdorf LBA Tract. A public Record of Decision for the tract will be mailed to parties on the mailing list and others who commented on this EIS during the NEPA process. The public and/or the applicant can appeal the BLM decision to hold or not to hold a competitive sale and issue a lease for the tract. The BLM decision must be appealed within 30 days from the date the Notice of Availability for the Record of Decision is published in the *Federal Register*. The decision can be implemented at that time if no appeal is received. If a competitive lease sale is held, the lease sale will follow the procedures set forth in 43 CFR 3422, 43 CFR 3425, and BLM Handbook H-3420-1 (Competitive Coal Leasing).

**Department of Justice
Consultation**

After a competitive coal lease sale, but prior to issuance of a lease, the BLM must solicit the opinion of the Department of Justice on whether the planned lease issuance creates a situation inconsistent with federal antitrust laws. The Department of Justice is allowed 30 days to make this determination. If the Department of Justice has not responded in writing within the 30 days, the BLM can proceed with issuance of the lease.