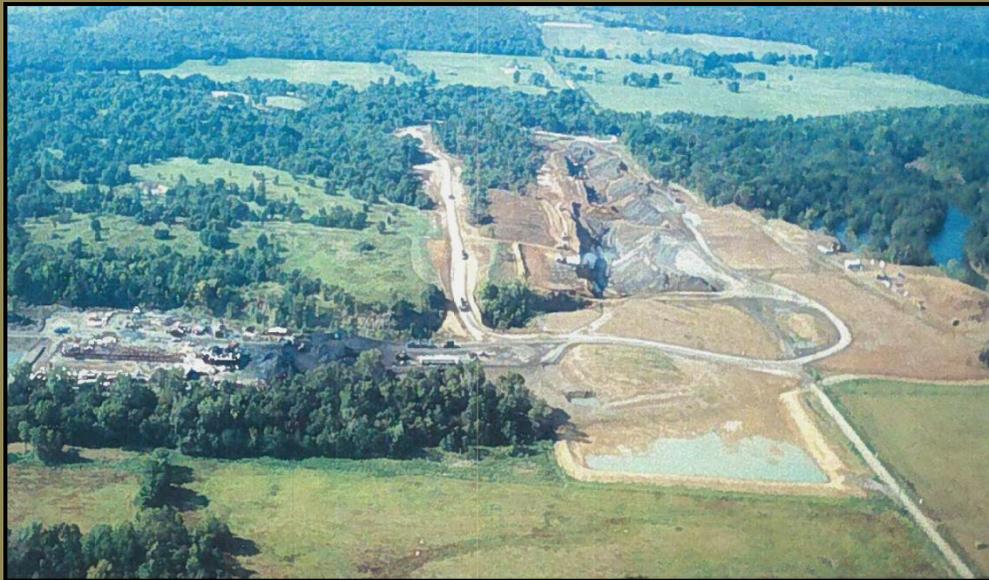


Resource Management Plan Amendment and  
Decision Record  
*for*  
*Federal Coal Leases in*  
*Haskell and LeFlore Counties, Oklahoma*



*U.S. Department of the Interior*  
*Bureau of Land Management*  
*Oklahoma Field Office*



February 2014

## ***BUREAU OF LAND MANAGEMENT***

*The Bureau of Land Management is responsible for the balanced management of the public lands and resources and their various values so that they are considered in a combination that will best serve the needs of the American people. Management is based upon the principles of multiple use and sustained yield, a combination of uses that takes into account the long-term needs of future generations for renewable and nonrenewable resources. These resources include recreation, range, timber, minerals, watershed, fish and wildlife, wilderness, and natural, scenic, scientific, and cultural values.*



# United States Department of the Interior

## BUREAU OF LAND MANAGEMENT

Oklahoma Field Office  
7906 East 33<sup>rd</sup> St., Ste. 101  
Tulsa, OK 74145



Dear Reader:

Enclosed is the Bureau of Land Management's (BLM) Oklahoma Resource Management Plan Amendment (RMPA) and Decision Record for the Federal Coal Leases in Haskell and LeFlore Counties, Oklahoma. This document represents the culmination of a planning process that began in August 2011.

A Draft RMPA, preliminary draft Environmental Assessment (EA), and Finding of No Significant Impact (FONSI) document was made available for an informal public review for a 30-day period, which ended April 30, 2013. The Proposed RMPA, EA, and FONSI document was made available for a 30-day protest period which ended January 3, 2014 and a 60-day Governor's Consistency review which ended on January 31, 2014. The Decision Record was signed by the New Mexico State Director on March, 13, 2014 and was been reprinted for your reference at the beginning of this document.

The decision is to implement BLM's preferred alternative, which will result in offering for lease new tracts of Federal coal and offering the opportunity to modify two other areas that are already under a Federal coal lease. This will allow development of all lands within the leased areas with the application of stipulations and appropriate mitigation as described in the RMPA. The RMPA presented the text of the selected alternative.

Ground-disturbing activities associated with the decisions made in the RMPA and Decision Record are subject to environmental and administrative reviews in accordance with applicable Federal regulations. The Oklahoma Field Office will use this RMPA as a framework for pursuing collaborative management of the Federal coal resources that are the subject of this document.

Thank you for your interest and participation in the planning process. If you have any question regarding this document, please contact Laurence Levesque at (918) 621-4136 or Richard Wymer at (918) 621-4115.

Sincerely,

Stephen G. Tryon  
Field Manager

Enclosure

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# Decision Record



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**BUREAU OF LAND MANAGEMENT OKLAHOMA FIELD OFFICE RESOURCE  
MANAGEMENT PLAN AMENDMENT FOR FEDERAL COAL LEASES  
IN HASKELL AND LEFLORE COUNTIES**

**DECISION RECORD**

**DECISION**

The decision is hereby made to approve the proposed Resource Management Plan Amendment (RMPA) to the 1994 Oklahoma Resource Management Plan (RMP) to incorporate Federal minerals to allow consideration of two lease modifications and two competitive coal sales in Haskell and LeFlore Counties in southeastern Oklahoma. In compliance with the National Environmental Policy Act (NEPA) of 1969, an environmental assessment (EA) was prepared for the proposed amendment.

**COMPLIANCE**

This decision complies with the requirements of the Federal Land Policy and Management Act of 1976 (FLPMA) (43 USC 1701) and NEPA (42 USC 4321). This decision amends the 1994 Oklahoma RMP. This amendment is consistent with plans and policies of the Department of Interior and the BLM, other federal agencies, tribal governments, Oklahoma state government, and local governments to the extent that the guidance and local plans are also consistent with the purposes, policies, and programs of federal law and regulation applicable to public lands. No formal comments were received from federal or tribal governments indicating the proposed plan was inconsistent with other existing plans or policies.

**SELECTED ALTERNATIVE**

**Features**

The selected alternative is BLM's preferred alternative, Alternative C, as described in the Proposed RMPA and EA. The current planning area, which contains the four Lease Application Areas (LAAs) would be made available for leasing, allowing for potential development of all lands within the leased areas with the exception of those lands considered to be unsuitable for development (in accordance with the unsuitability criteria of the coal screen multiple use criterion presented in the RMPA). The estimated total number of acres within the planning area considered at this time as unsuitable for development, after stipulations, is approximately 323.4 acres, which is about 8.1 percent of the total 4,000.62 acres. The unsuitable areas are located in the Liberty (297.1 acres) and Milton (26.3 acres) areas.

**Application of Measures to Avoid or Minimize Environmental Harm**

Areas may be open to Federal coal leasing under standard lease terms and conditions and any specific stipulations as defined in the 1994 RMP or the RMPA. Application of the coal screen unsuitability criteria and multiple use criteria identified areas that may be included for leasing consideration with stipulations. Coal lease stipulations were developed from the 1994 RMP as well as BLM policy documents and will be attached to the new coal leases. These stipulations are described in a subsequent section titled Implementing the Decision and Environmental Commitments. Also, it should be noted here that environmental review of coal mining activities is required during the process of leasing the Federal coal as well as the mine permit application process at which time environmental review will address site-specific actions of construction, operations, and abandonment.

## **FINDING OF NO SIGNIFICANT IMPACT**

On the basis of the information contained in the Proposed RMPA and EA for planning area which contains the four coal lease applications in Haskell and LeFlore Counties, Oklahoma with implementation of the protective measures found in the RMPA, it has been determined that (1) the inclusion of lands for leasing proposed by the RMPA will not have significant environmental impacts, individually or cumulatively, on the human, natural or cultural environment; and (2) the proposed RMPA does not constitute a major federal action having a significant effect on the human, natural or cultural environment. Therefore, an environmental impact statement is not necessary and will not be prepared.

## **SUMMARY OF AGENCY AND PUBLIC PARTICIPATION**

The BLM requested comments from the general public; local landowners; and Federal, State, and local agencies during scoping early in the planning and environmental process. Scoping began on June 24, 2011, with the publication in the *Federal Register* of a Notice of Intent to the 1994 RMP, prepare an EA, and conduct public scoping meetings. In addition, BLM distributed a media release, and prepared and mailed a scoping notice to approximately 250 agencies, interested organizations, and individuals on the BLM's mailing list. Also, project information was posted on the project website. Two public meetings were held in September 2011. A total of 44 people attended the meetings.

Issues were identified through the scoping process at the beginning of the project. Scoping is a process required in the early stages of preparing an RMPA and EA to encourage public participation and solicit public input on the scope and significance of the Proposed Action (40 CFR 1501.7). Scoping and the RMPA/EA process for the four planning areas began with the publication in the *Federal Register* of the Notice of Intent (NOI) to amend the RMP, prepare an EA, conduct public scoping meetings, and request any information that would be useful in meeting the requirements of the Federal Coal Management Program defined in 43 CFR 3420, including the application of coal planning screens.

On April 1, 2013, the BLM made available, for a 30-day public review and comment period, the Draft RMPA and EA. The availability of the Draft RMPA and EA and deadline for comments were announced on the BLM website and in postcards sent to agencies, landowners, attendees at the scoping meetings early in the project, and other interested parties on the project mailing list. The Draft RMPA and EA was posted to the BLM website and paper copies or CDs were produced and provided for those who requested them. Twelve comment submittals were received and reviewed, and relevant comments were incorporated into the document. While the comments are acknowledged and incorporated as appropriate in the Proposed RMPA, EA and FONSI, the comments will be addressed more appropriately when (1) BLM consults with qualified surface owners to determine whether they are for or against mining of property they own or (2) the Office of Surface Mining and Oklahoma Department of Mines prepares the more detailed permitting documentation prior to mining.

The Proposed RMPA, FONSI, and supporting EA were made available in December 2013 for a Governor's consistency review. BLM received no comments from the Governor's consistency review.

At the time of leasing, qualified surface owners, as defined in Title 43, Code of Federal Regulations, Part 3400.0-5 (43 CFR 3400.0-5), will be solicited by BLM to provide written consent in order for a coal operator to enter and commence surface mining. If the applicant cannot provide written consent from the qualified surface owner to enter and commence surface mining, the BLM would issue the lease for coal underlying that particular parcel for underground mining only.

## **DECISION RATIONALE**

The decision is based on a number of factors, including consideration of the relevant issues listed in the EA and the following.

### **Coal Screen**

As required by the Surface Mining Control and Reclamation Act of 1977, BLM reviewed the LAAs to determine whether the lands are suitable for further consideration for coal leasing. The four-part land use planning screens include (1) coal development potential, (2) unsuitability criteria, (3) multiple use consideration, and (4) surface-owner consideration.

The results of the first screen indicate that there are an estimated 10.03 million tons of coal that potentially could be removed. The results of the second screen indicate that, of the 20 unsuitability criteria, one criteria is applicable to two of the four LAAs within the planning area; however, exceptions or application of stipulations (described under “Application of Measures to Avoid or Minimize Environmental Harm” below) maximize the area considered suitable for leasing. After the second screen 9.9 million tons of coal remain available. The results of the third screen identified wetland and riparian areas and cultural resources that are not listed on the National Register of Historic Places. Specific riparian and wetland areas to be excluded from leasing have been identified by the U.S. Fish and Wildlife Service (USFWS). For cultural resources, BLM would attach the standard archaeological stipulation to new coal leases. After the third screen 9.7 million tons of coal remain available for removal. Communication with landowners, the fourth screen, has taken place since early in the planning process. During scoping, individuals in multiple areas expressed objections to mining activities. BLM will consult with qualified landowners by letter to determine preference for or against surface mining and to obtain written consent or rejection prior to offering the tracts for lease.

### **Consistency with the 1994 RMP**

As mentioned previously, the current planning area which contains the four LAAs were not addressed as part of the 1994 RMP and, for that reason, the activities included in the proposed action were not consistent with the 1994 RMP. Therefore, the RMPA/EA was prepared to assess the actions proposed and to determine the suitability of the actions for approval. It has been determined that this decision is in conformance with the planning direction in the 1994 RMP for Oklahoma. The 1994 RMP requires that standard and special protective stipulations and mitigation measures be applied to prevent undue adverse impacts on other resource values. Standard and special protective measures were identified and incorporated into the BLM preferred alternative to reduce impacts. The preferred alternative would not result in long-term unnecessary or undue degradation, and will not jeopardize the continued existence of federally listed species.

### **National Policy**

Leasing Federal mineral estate (in this case, coal) for the development of reliable domestic sources of energy is an integral part of the BLM’s coal program under the authority of the Mineral Leasing Act of 1920 and the Federal Land Policy and Management Act of 1976, and is consistent with the Energy Policy Act. The RMPA provides for leasing and development of coal resources, protection of sensitive areas, while maintaining public health and safety and ensuring compliance with applicable laws and regulations. The decision is consistent with national policy.

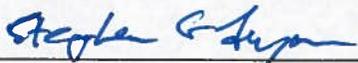
**Agency Statutory Requirements**

The decision is consistent with all Federal, State, and local authorizing actions required to implement the proposed action. All pertinent statutory requirements applicable to this proposal were considered.

**PROTESTS AND APPEALS**

The Proposed RMPA was circulated for a 30-day protest period in accordance with 43 CFR 1610.5-2. The protest period began December 2, 2013 and ended January 3, 2014. No protest letters were received. The decision of the BLM Director is the final decision of the Department of the Interior and exhausts internal appeal opportunities. Any person adversely affected by a decision of the BLM Officer in implementing some portion of an RMPA may appeal such action to the Interior Board of Land Appeals pursuant to 43 CFR 4.4000 at the time the action is proposed for implementation.

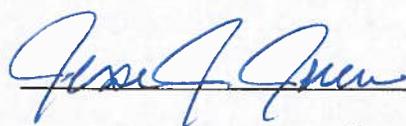
**RECOMMENDED BY:**

Signature: 

Date: 03/05/2014

Steve Tryon, Oklahoma Field Office Manager

**APPROVED BY:**

Signature: 

Date: 3/13/14

Jesse Juen, New Mexico/Oklahoma/Texas/Kansas

State Director

# Resource Management Plan Amendment



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## LIST OF ACRONYMS

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AIRFA	American Indian Religious Freedom Act
AML	Abandoned mine lands
ARPA	Archaeological Resources Protection Act
BLM	Bureau of Land Management
CEQ	Council on Environmental Quality
CFR	Code of Federal Regulations
CLS	Coal lease stipulation
CO <sub>2</sub>	Carbon dioxide
CH <sub>4</sub>	Methane
EA	Environmental Assessment
EMC	Evans Mining Company
ESA	Endangered Species Act of 1973
FCCM	Farrell-Cooper Mining Company
FLPMA	Federal Land Policy and Management Act
GCI	Georges Colliers, Inc.
LAA	Lease Application Area
LBA	Lease by Application
MBTA	Migratory Bird Treaty Act
MOA	Memorandum of Agreement
MSC	Mining Systems Corporation
NAGPRA	Native American Graves Protection and Repatriation Act
NEPA	National Environmental Policy Act
NOI	Notice of Intent
N <sub>2</sub> O	Nitrous Oxide
NRCS	Natural Resources Conservation Service
NRHP	National Register of Historic Places
OAC	Oklahoma Administrative Code
OAS	Oklahoma Archaeological Survey
ODM	Oklahoma Department of Mines
ODWC	Oklahoma Department of Wildlife Conservation
ONHI	Oklahoma Natural Heritage Inventory
OSM	Office of Surface Mining and Reclamation and Enforcement
ROW	Right-of-way
RMP	Resource Management Plan
RMPA	Resource Management Plan Amendment

SHPO	State Historic Preservation Office
USACE	U.S. Army Corps of Engineers
USDA	U.S. Department of Agriculture
USDI	U.S. Department of the Interior
USFWS	U.S. Fish and Wildlife Service
USGS	U.S. Geological Survey

# 1.0 INTRODUCTION

---

## 1.1 PURPOSE AND NEED FOR THE AMENDMENT

The Bureau of Land Management (BLM), Oklahoma Field Office, has prepared this amendment to its 1994 Resource Management Plan (RMP) to incorporate federal minerals that would allow consideration of two coal lease modifications and two competitive coal lease applications in Haskell and LeFlore counties, Oklahoma. The applications were received by the BLM from Farrell-Cooper Mining Company (FCMC); Evans Mining Company (EMC), Georges Colliers, Inc. (GCI); and Mining Systems Corporation (MSC) during the period between June 2008 and October 27, 2011.

The BLM, under the Secretary of the Interior, is the federal agency responsible for leasing federally administered coal, and the Federal Coal Leasing Amendments Act of 1976 requires that coal leases be issued in conformance with a comprehensive land use plan. The 1994 Oklahoma RMP and subsequent amendments include management direction for many federal mineral resources throughout Oklahoma; however, the applications are for resources located in areas not currently designated as available for coal leasing in the BLM's 1994 Oklahoma RMP, as amended. Therefore, the BLM has proposed amending the 1994 Oklahoma RMP, (previously amended in 1994, 1996, and 2004), to include two non-competitive lease modification and two competitive coal lease by application areas, referred to as Lease Application Areas (LAAs). This RMP Amendment (RMPA) incorporates the LAAs within a larger Planning Area totaling 4,000.62 acres of unleased coal into the RMP.

This amendment to the 1994 RMP was prepared to determine the following:

- Areas acceptable for further coal-leasing consideration with standard stipulations;
- Areas acceptable for consideration with special stipulations; or
- Areas unacceptable for further coal-leasing consideration.

Lands already considered in the 1994 Oklahoma RMP and previous amendments are not addressed. Alternatives will address the availability of unleased lands associated with the Planning Area for future coal leasing and any special stipulations to be considered in reviewing the applications for coal leasing.

Once BLM has determined whether standard stipulations are adequate or special protective stipulations will be required and the lands are incorporated into the Oklahoma RMP, BLM then may offer the tract for bid and issue the lease to the successful bidder. At this stage of the process, site-specific details of the proposed mining activities are not known.

At the time of the lease sale, a qualified surface owner, as defined in 43 Code of Federal Regulations 3400.0-5, must provide written consent in order for a coal operator to enter and commence surface mining. Without surface-owner consent, the BLM could issue the lease underlying that particular parcel for underground mining only.

Once a lease is issued, responsibility of the lead agency shifts and the lessee must submit a mine permit application, including mine operation and reclamation plans, to the Oklahoma Department of Mines (ODM). ODM is the state agency given the authority for review and approval of mining and reclamation in Oklahoma through designation by the U.S. Department of the Interior (USDI) Office of Surface Mining Reclamation and Enforcement (OSM). Site-specific environmental evaluation and mitigation planning is required at the time the mine permit application is submitted.

Preparation of this RMPA has been guided by BLM planning regulations 43 CFR 1600 under the authority of the Federal Land Policy and Management Act (FLPMA) of 1976, as amended, and its

mission, which is multiple-use, sustained-yield management of the National System of Public Lands; and 43 CFR 3400, which provides the framework for BLM to conduct leasing of the rights to extract federal coal.

The sizes and locations of the Planning Area are shown in Table 1-1 and Map 1-1. The total acres of federal mineral estate addressed by this RMPA are administered by BLM, whereas the surface is privately owned.

**TABLE 1-1  
LANDS WITHIN THE PLANNING AREA**

Area	Planning Area Acreage	County	Cadastral Location
McCurtain Area	1,300.62	Haskell, LeFlore	Sections 11, 12, 14 T8N R22E Section 7, T8N, R23E
Milton Area	290.00	LeFlore	Sections 23-25 T8N R22E Sections 19, 30 T8N R23E
Spiro Area	790.00	LeFlore	Sections 21-23, 26-27 T9N R26E
Liberty Area	1,620.00	Haskell	Sections 28-29, 32-33 T10N R21E

Although BLM does not have the authority to make decisions regarding surface lands that are not administered by BLM, it is responsible for disclosing the potential impacts on split estate that result from a BLM decision to lease Federal minerals and from development. Therefore, an environmental assessment (EA) was prepared to identify the potential impacts that implementation of the RMPA could have on the environment and identify appropriate stipulations and other measures to mitigate those impacts. The EA was prepared in compliance with the National Environmental Policy Act (NEPA) of 1976 as well as the Council on Environmental Quality (CEQ) regulations implementing NEPA.

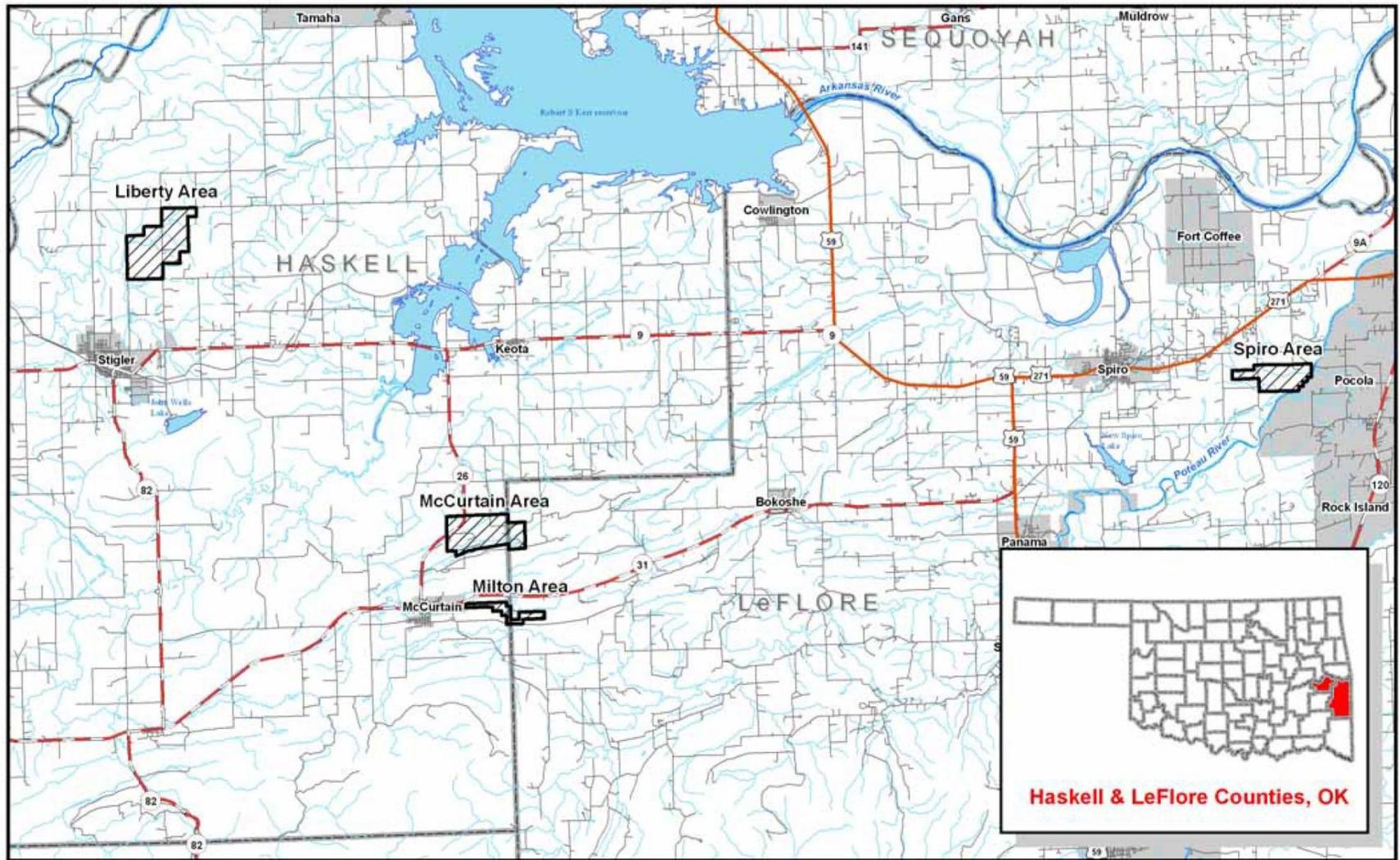
## **1.2 PLANNING PROCESS**

The RMPA process employs the nine basic steps of the BLM planning process. The process was conducted by an interdisciplinary team of resource specialists to complete each step. A brief description of each step and the work that was accomplished is provided in Sections 1.2.1 through 1.2.9.

### **1.2.1 Step 1 – Identification of Issues**

The scoping process is purposefully conducted early in the planning and NEPA process for the RMPA and EA and is open to all interested agencies and the public. The intent is to solicit comments and identify issues that help direct the approach and depth of the environmental studies and analysis needed to prepare the RMPA and EA. Objectives to meet this goal include:

- Identifying and inviting agencies with jurisdiction and/or special expertise relevant to the project to participate in the preparation of the RMPA and EA as cooperating agencies
- Identifying other interested parties and inviting them to participate in the planning and NEPA process
- Identifying other environmental review and consultation requirements
- Identifying the relevant and substantive issues that need to be addressed during the studies and in the RMPA and EA
- Determining the range of alternatives to be evaluated
- Developing the environmental analysis criteria and systematic process, allocating RMPA and EA assignments among agencies, as appropriate



**Legend**

 BLM Planning Area



No Warranty is made by the Bureau of Land Management as to the accuracy, reliability, or completeness of these data for individual use or aggregate use with other data or for purposes not intended by BLM. Spatial information may not meet National Map Accuracy Standards. This information may be updated without notification. Map modified 1/9/12.



0 5 10 Miles

Source:  
2011 BLM  
University of Oklahoma  
Center for Spatial Analysis

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Scoping and the RMPA/EA process for the Planning Area began with the publication in the *Federal Register* of the Notice of Intent (NOI) to amend the 1994 RMP, prepare an EA, conduct public scoping meetings, and request any information that would be useful in meeting the requirements of the Federal Coal Management Program defined in 43 CFR 3420, including the application of coal planning screens. The NOI was published on June 24, 2011 and an acreage correction was published on September 29, 2011. A Planning Bulletin and Scoping Notice were mailed by the BLM on September 2, 2011 to approximately 250 individuals, agencies, and interested organizations on the BLM's mailing list. Advertisements and paid legal notices were placed in local newspapers, the Spiro Graphic and the Stigler News-Sentinel in September 2011. A media release introducing the project and announcing the scoping meetings was prepared and issued on September 19, 2011 by the BLM through its public website.

Two scoping meetings were held in September 2011 which 44 people attended. The meetings were held to inform the public about the project and the planning and NEPA process and to solicit input on the scope of the project and potential issues. The 30-day scoping period ended on October 3, 2011. All of the comments and questions received were compiled, reviewed, and analyzed to identify the issues to be addressed in the Preliminary RMPA/EA.

The scoping process, including scoping activities and summary of comments and issues, was documented in a Scoping Report in December 2011 and sent to the interested parties on the mailing list. The Scoping Report is on file at the BLM Oklahoma Field Office. The comments received as part of scoping primarily addressed components of the RMPA and EA (e.g., process, purpose and need, schedule, project description and mining operations), landowner rights and compensation; water quality and quantity; air quality; noise; geology and soils; public health and safety; reclamation; and social and economic effects.

### **1.2.2 Step 2 – Development of the Planning Criteria**

Planning criteria are the standards, rules, and measures used for data collection and alternative formulation, which will guide final plan selection. Planning criteria are developed from appropriate laws and regulations, BLM manuals and directives, and concerns expressed in the meetings and consultations, both with the public and other agencies. The planning criteria to guide the development of the RMPA include the following:

- Recognize valid existing rights
- Follow existing laws, executive orders, regulations, and BLM policy and program guidance
- Collaborate with agencies and the public
- Consider adjoining land to minimize land use conflicts
- Develop reasonable alternatives
- Avoid unbalanced analysis
- Use science-based analysis with relevant and current data
- Address social and economic conditions
- Address effects on natural, human, and cultural resources

### **1.2.3 Step 3 – Collection of Data and Information**

The majority of data and information used was existing data from the BLM Oklahoma Field Office and other relevant sources. Data included published and unpublished reports, maps, and digital information (geographic information system). Resources and resource uses addressed include the following:

- Land Uses
- Special Status Species
- Access and Transportation
- Noxious Weeds
- Geology and Minerals
- Hazardous Materials
- Soils
- Cultural Resources
- Water Resources
- Paleontological Resources
- Climate
- Air Quality
- Recreation
- Noise
- Visual Resources
- Vegetation
- Social and Economic Conditions
- Wildlife

### **1.2.4 Step 4 – Analysis of Management Situation**

The purpose of the Analysis of Management Situation was to characterize the existing condition of the environment potentially affected by the proposed action (i.e., the baseline environmental data), examine the existing management direction, and consider whether existing management remains adequate or determine if existing management should be modified. The resulting documentation, prepared to be appropriate and commensurate with the planning issues, is on file at the BLM Oklahoma Field Office. Once the existing environment had been inventoried and characterized, in accordance with 43 CFR 3400, BLM reviewed (or screened) the Federal coal land within the Planning Area. The purpose was to (1) determine the potential for coal, and the suitability (or unsuitability) and appropriateness of multiple uses; and (2) consult with the affected, qualified surface landowners to determine whether they are for or against surface mining of the land they own. Through this screening, lands that were determined unsuitable for leasing and subsequent development were eliminated from further consideration.

### **1.2.5 Step 5 – Formulation of Alternatives**

Three alternatives were developed to respond to issues identified through scoping and BLM management concerns, explore alternatives to existing management, comply with BLM planning guidelines, and comply with the FLPMA requirement of managing for multiple use and sustained yield. The alternatives, described in more detail in Chapter 2.0 of the Proposed RMPA/EA, include: (1) Alternative A: No Action, (2) Alternative B: Maximum Coal Development, and (3) Alternative C: Balanced Coal Development and Other Resource Protection.

### **1.2.6 Step 6 – Estimation of Effects of the Alternatives**

Considering the baseline environmental data of the areas open to leasing and subsequent development along with the description of the activities that would take place under each alternative, the potential adverse and beneficial environmental consequences, or effects, that could result from each of the alternatives were identified and evaluated. Mitigation measures and reclamation also were considered in evaluating the potential effects. The environmental consequences that could result from each of the alternatives are described in Chapter 4.0 of the Proposed RMPA/EA.

### **1.2.7 Step 7 – Selection of the Preferred Alternative**

Following an in-depth analysis of the environmental effects associated with the three alternatives, the BLM Oklahoma Field Manager identified and recommended Alternative C: Balanced Coal Development and Other Resource Protection as the agency's preferred alternative to the BLM New Mexico State Director. The Proposed RMPA/EA then was completed to document the process and results, and was distributed for a 60-day Governor's Consistency Review and a 30-day protest period. The right-to-protest applies to any person who has participated in the amendment process and has an interest that may be affected by the amendment decision. However, only those issues of record submitted to the Oklahoma Field Manager during the amendment process were subject to protest.

### **1.2.8 Step 8 – Selection of the Plan Amendment**

No protests were received; therefore, BLM prepared and issued this RMPA and Decision Record.

### **1.2.9 Step 9 – Monitoring and Evaluation**

The approved RMPA will serve as general guidance for the coal lease areas. BLM will offer the lands within the Planning Area for bid and issue the leases to the successful bidder. Once the leases are issued, lead-agency responsibility shifts and the lessee must submit a mine permit application, including mine operation and reclamation plans, to the ODM. The ODM is the State agency given the authority for review and approval of mining and reclamation in Oklahoma through designation by the OSM. The ODM and OSM are responsible for completing site-specific environmental evaluation and mitigation planning at the time the mine permit application is submitted. BLM participates in review of the mine plan to ensure that the lease stipulations are upheld and the economic recovery of the Federal coal is maximized. Over time, BLM will monitor and evaluate the actions, resource conditions, and trends to determine the effectiveness of the RMPA and to ensure that implementation of the RMPA is achieving the desired results.

## **1.3 CONFORMANCE WITH BLM POLICIES, PLANS, AND PROGRAMS**

The RMPA has been prepared in accordance with current laws, regulations, and policy (e.g., FLPMA, NEPA, BLM Land Use Planning Handbook [H-1601-1], and BLM NEPA Handbook [H-1790-1]) and to provide the public an opportunity to review the decision-making for the coal leases.

In 1994, the BLM Oklahoma Field Office completed an RMP, which provides a comprehensive framework for managing the federally owned minerals and BLM-administered public land in the State of Oklahoma. Among other resources, the RMP identified federal coal tracts considered, at that time, to have potential for leasing and development. The Record of Decision for the RMP and Decision Records for subsequent amendments are incorporated appropriately with this RMPA.

The RMP was subsequently amended in 1994, 1996, and 2004 to analyze additional coal acreage not included in the original 1994 RMP. The current Planning Area are outside of areas designated as available for coal leasing in the RMP or its amendments. The majority of these proposed Planning Area were not included in the 1994 RMP or subsequent amendments, primarily because the tracts represented lands that had previously been mined in the early 1900s or were considered not economically viable. However, improvements in mining technology and economic demand would now allow mining in these areas. Amending the RMPA incorporates the coal lease modifications and the coal lease applications would place the lease process in conformance with BLM laws, regulations, and policy.

## 2.0 MANAGEMENT PLAN AMENDMENT

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### 2.1 INTRODUCTION

This section contains a description of the RMPA. Section 2.2 provides a summary of applicable general management guidance. The BLM would follow this management guidance, which consists of laws, regulations, and policies. Section 2.3 consists of the results of conducting the four-part land use planning coal screen required by (43 CFR 4361). The coal screen considers and addresses potential for coal development, areas where coal development may be unsuitable, compatibility with other land uses, and consultation with qualified landowners. Section 2.4 contains a description of the management plan amendment.

### 2.2 MANAGEMENT GUIDANCE

#### 2.2.1 Laws, Regulations, and Policies

BLM's management of the federal mineral estate and surface resources is governed by several laws, regulations, Executive Orders, and policies, some of which are summarized below and in Table 2-1. Applicable decisions from the 1994 RMP, cooperative agreements or memoranda of understanding with state and other federal agencies will continue.

**TABLE 2-1  
APPLICABLE MAJOR LAWS, REGULATIONS, AND POLICIES**

Law/Regulation	Applies to
American Indian Religious Freedom Act of 1978; 42 U.S.C. 1996	American Indian religious places and access
Archaeological Resources Protection Act of 1979; 16 U.S.C. 470	Archaeological resources
BLM NEPA Handbook H-1790-1 (2008)	
Clean Air Act of 1970, as amended 1990; 42 U.S.C. 7401 <i>et seq.</i>	Air quality
Clean Water Act, as amended; 33 U.S.C. 1252 <i>et seq.</i>	Surface water quality
Comprehensive Environmental Response, Compensation, and Liability Act of 1986	Hazardous substances reporting and cleanup
Endangered Species Act; 16 U.S.C. 1531 <i>et seq.</i> , as amended	Threatened and endangered species
Energy Policy Act of 2005	Federal coal leases
Federal Coal Leasing Amendments Act of 1976; 30 U.S.C. 201	
Federal Land Policy and Management Act of 1976; 43 U.S.C. 1700, <i>et seq.</i>	Federal lands, special management areas
Federal Noxious Weed Act of 1974, as amended	Noxious weeds
Federal Water Pollution Control Act, as amended 1972	Watersheds
General Mining Law of 1972; 30 U.S.C. 22-54	
Migratory Bird Treaty Act of 1918, as amended	
Mineral Leasing Act of 1920	
Mineral Leasing Act of 1947; 30 U.S.C. 351, 352, 354, 359	
Mining and Mineral Policy Act of 1970; 30 U.S.C. 219	Mining
Mining Law of 1872, as amended	Mining claims
National Environmental Policy Act of 1969 and implementing regulations 40 CFR 1500-1508	Federal undertakings
National Historic Preservation Act of 1966; 16 U.S.C. 470	Archaeological and historic properties

**TABLE 2-1  
APPLICABLE MAJOR LAWS, REGULATIONS, AND POLICIES**

Law/Regulation	Applies to
National Materials and Minerals Policy Research Development Act of 1980	Mineral Resources
Native American Grave Protection and Repatriation Act of 1990	
Resource Conservation and Recovery Act of 1986, as amended	Hazardous and solid waste
Soil and Water Conservation Act of 1977	
Surface Mining Control and Reclamation Act of 1977; 30 U.S.C. 1201 <i>et seq.</i>	
Water Quality Act of 1987	Riparian area, wetlands
Watershed Protection and Flood Control Act of 1954	Watersheds
Executive Order 11593 of May 15, 1971	Protection and enhancement of the cultural environment
Executive Order 11988 of May 24, 1977	Floodplain management
Executive Order 11989 of May 24, 1977	Off-highway vehicles
Executive Order 11990 of May 24, 1977	Protection of wetlands
Executive Order 12898 of February 11, 1994	Environmental justice
Executive Order 13006 of May 21, 1996	Historic properties
Executive Order 13007 of May 24, 1996	Indian sacred sites
Executive Order 13186 of January 10, 2001	Responsibilities of federal agencies to protect migratory birds
Executive Order 13112 of February 3, 1999	Invasive species
Executive Order 13287 of March 3, 2003; updated May 11, 2009	Preserve America

### **2.2.2 Lands**

BLM has a responsibility for ensuring that mineral development on split estate (private surface overlying federal minerals) occurs in accordance with existing statutes and regulatory requirements, and that NEPA documents potential impacts to the area in the event of mineral development. The Planning Area involves federal coal underlying private surface and as such fall under split estate guidelines.

### **2.2.3 Access**

There are no federal laws or regulations applicable to access in this case. However, BLM's policy, described in BLM Manual H-1601-1, *Land Use Planning Handbook*, states that specific management direction associated with access would be intended to protect unique resources or values where BLM determines it to be necessary.

### **2.2.4 Geology and Minerals**

The BLM's responsibility for the management of the federal government's coal mineral resources and the effect that management has upon the surface requires that all minerals management decisions and mineral resource allocations comply with both NEPA and CEQ guidelines implementing NEPA. BLM's decision whether to permit leasing and development would be based in part on the following four land use planning "screens" as described in 43 CFR 3420:

- Screen 1 – Development Potential
- Screen 2 – Unsuitability Criteria
- Screen 3 – Multiple Use
- Screen 4 – Surface Owner Consultation

According to the 1994 RMP, coal program activities in Oklahoma involve on-site inspections, production inspections, reclamation inspections and lease operation review.

### **2.2.5 Soils**

Per direction in the 1994 RMP, the BLM would rely extensively upon the U.S. Department of Agriculture Natural Resources Conservation Services soil survey program and its county publications when evaluating potential surface-disturbing actions. Emphasis would be placed upon prevention of surface degradation as well as mitigation and rehabilitation of surface damages.

Highly erodible soils should be managed to maintain or reduce erosion and to improve vegetative ground cover. Where necessary, roads should be upgraded, maintained, and properly surfaced in accordance with the appropriate standards. Areas where the soils are highly erodible or difficult to reclaim would be avoidance areas for surface-disturbing activities.

### **2.2.6 Water Resources**

#### **2.2.6.1 Groundwater**

Per FLPMA, BLM would comply with all applicable state and federal groundwater pollution control laws and water quality standards (described in Section 3.6). There is no additional BLM management direction or policies regarding groundwater.

#### **2.2.6.2 Surface Water**

BLM has established a management and planning structure that conserves resources and protects surface water quality. BLM direction in surface-water resources is provided in Departmental Manual 7200, *Water Resources*, specifically the subsections on watershed condition analysis, watershed activity planning, floodplain management, groundwater, water quality, water rights, and floodplain management. BLM direction on water resources also is dispersed within BLM manuals for rangeland health, minerals management, mining, special status plants and wildlife management, fisheries management, recreation engineering, habitat management, and general program management and administration.

In addition, in 1998, BLM adopted as policy a portion of the larger *Federal Clean Water Action Plan*. Specifically, the portions of the plan applicable to riparian restoration and management, abandoned mine lands, and rangeland health. The portions of the plan adopted also committed BLM to a watershed approach in monitoring, assessing, reclaiming, and maintaining water resources.

### **2.2.7 Air Quality and Climate**

BLM actions, including land use authorizations, would comply with all applicable local, state, tribal and federal air quality laws, statutes, and regulations (described in Section 3.7). There is no additional BLM management direction or policies regarding air quality.

### **2.2.8 Vegetation**

The 1994 RMP maintains a *Riparian Area Management Policy* to maintain, restore, or improve riparian areas to achieve a healthy and productive ecological condition for maximum long-term benefits. This BLM policy, in accordance with Executive Order 11988 (Floodplain Management) and Executive Order 11990 (Protection and Management of Wetlands), identifies wetland and riparian areas as areas for management concern. Wetland and riparian resource protection stipulations have been developed as an integral part of the BLM's coal resource management program, and would be applied as appropriate to any authorized activity with the Planning Area.

### **2.2.9 Wildlife**

Policies are outlined in a series of BLM manuals for various wildlife program activities. In addition, BLM would continue to manage public resources under the concepts of Standards and Guidelines (43 CFR Part 4180).

Also, under a Memorandum of Understanding between BLM and the U.S. Fish and Wildlife Service (USFWS), BLM will promote conservation of migratory birds and minimize potential adverse effects of take under the Migratory Bird Treaty Act (MBTA). The goal among the agencies is to strengthen migratory bird conservation by identifying and implementing strategies that promote conservation and minimize adverse impacts on migratory birds through collaboration among the cooperating agencies.

Per 1994 RMP, the BLM's wildlife management program activities in Oklahoma would be limited to preparation of environmental analyses, special status species evaluations or clearances, wetland determinations and development of stipulations for impact avoidance or mitigation in the mineral development and lands initiatives.

Federal minerals under private surface or federal surface managed by another federal agency or licensed by another federal agency to a state or local agency for surface management purposes are the most common situations encountered in BLM's wildlife management program in Oklahoma. In these situations, BLM's wildlife responsibilities in Oklahoma do not begin until a BLM mineral action is proposed. As such, fish and wildlife resource concerns would be addressed through site-specific agency coordination in Oklahoma. Coordination would be initiated with the Oklahoma Natural Heritage Inventory (ONHI) and if necessary with the USFWS and the Oklahoma Department of Wildlife Conservation (ODWC).

### **2.2.10 Special Status Species**

BLM has a legal mandate to conserve and manage threatened or endangered species, and also has a policy to conserve all special status species. Decision-making should be consistent with BLM's mandate to recover listed species and should be consistent with objectives and recommended actions in approved species recovery plans, conservation agreements and strategies, memorandum of understanding, and applicable biological opinions for threatened and endangered species and designated critical habitat (BLM Land Use Planning Handbook H1601-1, Appendix C).

BLM has entered into a Memorandum of Agreement (MOA) with the U.S. Forest Service, National Marine Fisheries, and USFWS to improve Section 7 consultations under the Endangered Species Act (ESA). The goal of the MOA is to improve the efficiency and effectiveness of project and programmatic-level Section 7 consultation processes and enhance conservation of listed species while delivering appropriate goods and services provided by lands and resources managed by the signatory agencies.

Per 1994 RMP, the BLM's special status species management activities in Oklahoma are limited to preparation of environmental analyses and special status species evaluations or clearances and development of stipulations for impact avoidance or mitigation in the mineral development and lands initiatives.

The 1994 RMP includes one Coal Lease Stipulation (CLS-4) for protection of the American burying beetle (*Nicrophorus americanus*), a federally listed endangered species. The stipulation prohibits surface-disturbing activities that would result in unacceptable impacts on the American burying beetle. The stipulation is specifically attached to leases in Bryan, Cherokee, Haskell, Latimer, LeFlore, Muskogee, Pittsburg, Sequoyah, and Tulsa Counties. As such, this stipulation would apply to the Planning Area.

Federal minerals under private surface or federal surface managed by another federal agency or licensed by another federal agency to a state or local agency for surface management purposes are the most common situations encountered in BLM's management program in Oklahoma. In these situations, BLM's responsibilities in Oklahoma do not begin until a BLM mineral action is proposed. As such, special status species concerns are addressed through site-specific agency coordination in Oklahoma. Coordination is initiated with the ONHI and if necessary with the USFWS and ODWC.

The ESA, MBTA, Bald Eagle Protection Act, BLM policies regarding protection of special status species, and information received from the USFWS, ODWC, and the ONHI would influence the development and application of stipulations for resource protection.

### **2.2.11 Hazardous Materials**

BLM's hazardous materials management program direction and guidance consist of application of federal and state air quality laws, surface protection regulation, water quality regulations, and BLM manuals and policy memoranda. The program activities are limited to preparation of environmental analyses, evaluations of potential surface-disturbing activities, and development of stipulations for impact avoidance or mitigation in the mineral development and lands initiatives. Hazardous materials management would be accomplished by incorporation of site-specific mitigation measures for each BLM authorized action or approval.

### **2.2.12 Cultural Resources**

Whereas most other BLM offices operate under a programmatic agreement and state implementation protocols in accordance with those regulations to give more autonomy to BLM in complying with Section 106, the programmatic agreement does not apply to BLM decisions for Oklahoma, Kansas, or Texas. In these three states, BLM does Section 106 review on a project by project basis.

The Planning Area are located on privately owned land and not on BLM-administered public land, therefore, federal regulations such as the Archaeological Resource Protection Act (ARPA) is not applicable. However, the American Indian Religious Freedom Act (AIRFA) and Native American Graves Protection and Repatriation Act (NAGPRA) may apply. AIRFA is a joint resolution of Congress, expressing as policy that the United States will respect and protect the right of Indian tribes to the free exercise of their traditional religions. Under AIRFA, agencies should consult with tribes about anything that might affect their religious practices.

Cultural resources program involvement in split-estate minerals activities in Oklahoma consists of development of environmental analyses reports, site-specific evaluations or inventories in support of mineral leasing, development of stipulations for impact mitigation or impact avoidance, and consultations with state agencies.

BLM also has issued policy in the form of manuals, including Manual 8100, *Cultural Resource Management*; Manual 8110, *Identifying Cultural Resources*; Manual 8120, *Protecting Cultural Resources*; Manual 8130, *Utilizing Cultural Resources for Public Benefit*; and Manual 8160, *Native American Coordination and Consultation*. In addition, specific policy for addressing cultural resources in RMPs has been issued as Information Bulletin 2002-101. The bulletin defines policy for identifying cultural resources, defining management goals, allocating uses of cultural resources, and defining management actions to support the plan goals.

A key tool used by the BLM to manage the cultural resources is a varied intensity of inventory divided into three classes: Class I Review of previously conducted inventory results, Class II Sampling field inventory (all sample units inventoried to a Class III level), and Class III Intensive field inventory (covers 100 percent of the area on foot). With only specifically defined exceptions in the BLM Cultural Resource Manual, the Class III inventory would be required before any surface-disturbing activity.

### **2.2.13 Paleontological Resources**

BLM has developed objectives for paleontological resources (BLM Manual H-8270-1, *General Procedural Guidance for Paleontological Resource Management*) to provide protection of the resources. It is the policy of BLM to manage paleontological resources for these values and to mitigate adverse impacts on them.

Per 1994 RMP, the BLM paleontological resource management program within Oklahoma includes the requirement that the BLM be notified should paleontological resources be encountered during the conduct of BLM-approved operations.

### **2.2.14 Social and Economic Conditions**

As required by statute and executive order, including FLPMA, NEPA, and Executive Order 12898, and as outlined in BLM Handbook H.1601-1, Appendix D, BLM would consider social science information when preparing the RMPA. The BLM also would consider multiple use and sustained yield to meet the needs of present and future generations. These needs would include environmental protection in relation to human occupancy and other uses that may conflict or create conflicting demands.

### **2.2.15 Recreation**

Per the 1994 RMP, the BLM's recreation program in Oklahoma consists of limited coal planning responsibilities in eastern Oklahoma. Recreation values or components that would be evaluated and discussed for the current proposal include effects on visual resources and areas with significant recreation resource values or potential conflicts with other resource uses.

## **2.3 DESCRIPTION OF TYPICAL OPERATIONS**

The description that follows is a general description of the potential mining operations at each of the four Planning Area if Alternative B or C is selected as the Proposed Action. Mining methods would be defined in more detail in the mine plan of operations during the mine permitting phase. The mining plan would also be used to address existing landscape features, potentially associated with abandoned mine lands (AML) or other past uses, to provide safer final restoration plan landscape features.

Coal mined from the four mining areas has metallurgical properties, and would be marketed to the steel industry as coking coal. The coking coal would be converted to coke, a hard, porous, almost pure carbon material, by exposing to high heat in a coke oven (to 1832-2012°Fahrenheit [1000-1100°Celsius]). During the coking process greenhouse gases including N<sub>2</sub>O, CH<sub>4</sub>, and CO<sub>2</sub> are produced (USEPA, 2011). The

coke would then be used to convert iron ores into steel. It is estimated that up to 70% of the coking coal mined from the mining areas could be sold to foreign off-shore steel mills. The exact destination(s) of the coal are unknown but, based on market conditions and cost of transporting freight, could be Europe, Brazil, and/or Mexico (Farrell-Cooper, 2013).

### **2.3.1 Liberty Area Expected Operations**

FCCM's lease by application, OKNM 124610 (460 acres), in the Liberty area is based upon FCCM's intent to extend an existing operation on private coal lease adjacent to the federal coal in the area. The current operation FCCM conducts is a side-cast surface mining operation under Permit Nos. 10/15-4280 and 09/14-4279 issued by the ODM. The Liberty Area is located northeast of Stigler, Oklahoma.

Mining activities have been conducted in the general area of Stigler, Oklahoma, since the early 1900s. Underground mining occurred southeast of the tract beginning in the early 1920s through the late 1940s. Surface mining began in the early 1920s and continues through the present. Portions of the tract in sections 32 and 33 were leased and surface-mining operations were conducted from 1971 through 1980 under portions of leases BLM-C-030953 and BLM-C-031215. Surface mining is proposed on this tract; however, auger and high-wall mining could be conducted.

### **2.3.2 McCurtain Area Expected Operations**

McCurtain Planning Area is located northeast of McCurtain, Oklahoma. The RMP was amended in 2004 to allow leasing of the adjacent lands to the west of this tract. The entire tract was under lease in the past in portions of BLM-C-028799, BLM-C-022012, and BLM-I-017564.

Mining activities have been conducted in the general area of McCurtain, Oklahoma since the early 1900s. Underground mining occurred to the west of the tract beginning in the early 1920s through the mid-1950s. Surface mining was conducted south of the tract beginning in the late 1940s through the early 1970s. Underground mining is proposed for this tract.

### **2.3.3 Milton Mine Expected Operations**

MSC currently is mining, through the surface-mining method, the coal reserve in Section 20, Township 8 North, Range 23 East, adjacent and contiguous to the proposed modification area. The proposed modification area would provide MSC with an additional 466,200 tons of strippable coal reserves to expand the existing operation.

The Milton Mine is located east of McCurtain, Oklahoma. The tract, a lease modification submitted to BLM, would add 290 acres to lease BLM-I-017902 (OKBLM 017902). MCS conducted surface-mine operations adjacent to this tract on Permit No. 08/13-4269F.

Mining activities have been conducted in the general area of McCurtain, Oklahoma, since the early 1900s. Underground mining occurred to the west, east, and within the tract. Surface mining was conducted through the tract. Surface mining is proposed on this tract, as well as coal processing facilities.

### **2.3.4 Spiro Mine Expected Operations**

GCI currently is mining, through the underground mining method, the coal reserve in Township 9 North, Range 26 East, sections 28, 29, 30, 31, and 32 adjacent and contiguous to the proposed modification area. The Spiro Mine also has been known as the Pollyanna Mine. The proposed modification area would provide GCI with (1) an additional 4,456,000 tons of underground coal reserves to expand the existing

operation and (2) access to the eastern portion of the federal lease OKNM 91190 presently held by the applicant.

The Spiro Mine Area is located east of Spiro, Oklahoma. The tract, a lease modification submitted to BLM, would add 790 acres to OKNM 091190. GCI conducts underground mining operations adjacent to this tract on Permit No. 10/15-4243F. The entire tract was under lease in the past within BLM-I-017683.

Mining activities have been conducted in the Spiro, Oklahoma, area since the early 1900s. Underground mining is currently active adjacent to the tract. Surface mining has occurred south of the tract in the past.

## **2.4 ALTERNATIVES DEVELOPMENT**

The development of alternatives addressing the Proposed Action is based on law, regulation, and policy; issues identified during scoping early in the NEPA process; BLM management concerns; unsuitability analysis; and the information base developed in the Analysis of Management Situation (Chapter 3). As mentioned previously, the alternatives address the availability of unleased land associated with the Planning Area for future coal leasing and any special stipulations to be considered. Once the BLM has determined which lands in the Planning Area are suitable for coal mining and whether standard stipulations are adequate or special protective stipulations will be required and the lands are incorporated into the Oklahoma RMP, the BLM then offers the tract for bid and issues the lease to the successful bidder. At this stage of the process, site-specific details of the proposed mining activities are not known.

At the time of the lease sale, a qualified surface owner, as defined in 43 CFR 3400.0-5, must provide written consent in order for coal to be leased for surface mining. Without surface-owner consent, the BLM would issue the lease underlying that particular parcel for underground mining only.

Once a lease is issued, responsibility of the lead agency shifts and the lessee must submit a mine permit application, including mine-operation and -reclamation plans, to the ODM in conjunction with OSM. Site-specific environmental evaluation and mitigation planning is required at the time the mine permit application is submitted.

The following sections describe the unsuitability criteria, multiple-use analysis, surface-owner consultation, stipulations for leasing, and coal-screening results.

### **2.4.1 Unsuitability Criteria**

Whenever land-use planning is undertaken, BLM is required to analyze whether areas are unsuitable for surface coal mining based on 20 criteria used to evaluate cultural and environmental aspects that may be affected by mining (listed in 43 CFR 3461.5). After the criteria are applied, the lands may be classified three ways:

- Suitable for further consideration for coal leasing
- A deferred decision may be made if the data are inconclusive or subject to change
- The area may be classified unsuitable for further consideration for leasing

This section applies and documents the analysis of unsuitability criteria for the coal resources within the Planning Area, which includes the Liberty (OKNM 124610) Lease by Application (LBA), McCurtain (OKNM 127509) LBA, Milton (OKBLM 017902) Lease Modification, and Spiro (OKNM 91190) Lease Modification. The criteria were evaluated using environmental data compiled for the Planning Area with the intent to determine areas that are unsuitable for surface mining in accordance with 43 CFR 3461.

A deferred decision allows lands to be considered for leasing until such time as a lease application is received or a coal tract is established and a more detailed and up-to-date study can be completed. This includes situations where making the decision today would be premature because changes can be expected to occur between the time the unsuitability criteria are first applied and a lease sale takes place. Mining effects also may be minimized by attaching stipulations to leases or by determining certain lands unsuitable to mining by surface methods. In addition, there may be exceptions to the findings of the unsuitability criteria screen. Exceptions, defined in 43 CFR 3461.5 for each of the criteria, may be made if the surface-managing agency determines a significant effect would not result.

Unsuitability decisions were based on these criteria and applied to federally owned coal estate within the four Planning Area not currently covered under the 1994 Oklahoma RMP, as amended.

It should be noted that underground mining of coal deposits are exempt from the criteria, where there would be no surface-coal-mining operations as stated in 3461.1(a). However, in instances where underground mining would have surface operations or impacts on lands where the criterion applies, the lands are assessed as unsuitable unless an exception or exemption applies (43 CFR 3461.1(b)). Each criterion is subject to exception and/or exemptions as prescribed in the regulations. McCurtain LBA and the Spiro Lease Modification are both proposed underground mines, whereas Milton Lease Modification and Liberty LBA are proposed surface mines.

The resources and resource-uses were reviewed considering the unsuitability criteria. Using a geographic information system, the environmental database was reviewed, and the 20 criteria were applied to determine the locations and estimated extent (in acres) of the areas considered unsuitable for development. Of the 20 criteria, one criterion (Criterion Number 3 – Buffer Zones for Rights-of-Way, Communities, and Buildings) was found to be applicable to the Planning Area. As a result of this analysis, there are 3,861 acres determined to be suitable and 139 acres determined to be unsuitable at the present time. Results of the analysis are presented in Table 2-2 (Section 2.4.5) and Table 2-3 (Section 2.4.5).

It should be emphasized that the estimates are based on available data for the purpose of determining lands available for leasing. Once site-specific mine plans of operation have been completed and approved, further environmental investigation to comply with NEPA may alter the area allowed for development.

## **2.4.2 Results of Multiple-Use Analysis**

The multiple-use screen is intended to identify lands that should be eliminated from further consideration for coal leasing if resources on those lands, other than those identified through the unsuitability criteria screen, are determined to be locally important or unique. Consideration of these other resources or uses at this stage of planning allow for accommodation of unique, site-specific resource values deemed superior to coal, but not analyzed in the unsuitability criteria.

The multiple-use values and management considerations in the Planning Area include wetland and riparian areas and cultural resources not listed on the National Register of Historic Places (NRHP).

1. Wetland (forested, emergent, or riverine wetlands) areas deemed important by the BLM and USFWS have been identified during the Unsuitability Analysis. BLM would attach the coal lease stipulation (CLS) for wetlands, U.S. Geological Survey (USGS) mapped streams, and riparian zones (CLS-3) to new coal leases as stated in Section 2.4.4. Riparian zones have been incorporated as a 100-foot buffer applied to mapped wetlands and streams. Wetland, stream, and riparian buffer acres to be excluded based on the multiple-use screen are reflected in Table 2-2 (Section 2.4.5).

2. Cultural resources have been identified in consultation with the Oklahoma Archaeological Survey (OAS), American Indian tribes, the public, and BLM and presented in the Class I Cultural Resource Report (on file in the Oklahoma Field Office; Cultural Resources Report NM-040-2012-72). BLM would attach the standard archaeological stipulation to new coal leases as stated in Section 2.4.4.

### **2.4.3 Surface-Owner Consultation**

The BLM will be consulting with qualified surface owners to determine whether they are for or against surface mining. A qualified surface owner is person or persons who: (1) hold legal or equitable title to the surface of split-estate land; (2) have their principal place of residence on the land, or personally conducts farming or ranching operations upon a farm or ranch unit to be affected by surface mining operations; or receives directly a significant portion of their income, if any, from such farming and ranching operations; and (3) have met these conditions of (1) and (2) for a period at least 3 years. The results of the surface owner consultation are not considered in this analysis but described herein for reference. If a qualified surface owner does not consent to surface mining, the area may be considered unsuitable for leasing as a surface mine, but may be considered leasable for underground mining.

Communication to inform landowners and exchange information about the potential mining in the Planning Area has been taking place since early in the planning process (and before). Landowners were contacted individually to invite them to attend and participate in the scoping meetings (September 2011) early in the planning process and to discuss the landowners' opinions, concerns, and preferences.

During scoping, individuals in multiple areas expressed objections to mining activities. Results of scoping can be reviewed in the Scoping Report for the project issued in December 2011. BLM has responded to and will continue to respond to landowner questions and comments.

BLM will consult with qualified landowners by letter to obtain written consent or rejection of surface mining prior to offering the tracts for lease.

Mining within 300 feet of an occupied residence requires a written waiver from the occupant (Oklahoma Administrative Code [OAC] 460:20-7-4(5)), without which the operator/lessee would not be allowed to mine closer than 300 feet. Blasting operations within 1,000 feet of an occupied dwelling requires a blast design approved by the ODM. Also, limits on adverse effects of blasting are set by Oklahoma OAC 460:25-13-19. Maximum acceptable airblast and ground-vibration limits are imposed for all blasting operations. These limits cannot be exceeded at occupied dwellings outside the permit area. The proper blast design ensures the operator does not exceed these limits. Monitoring also is conducted using seismographs that accurately measure ground-vibration and airblast levels at the protected structures.

The operator/lessee would not conduct surface-mining operations on any lands where legal rights have not been granted by the owner of the property to enter and conduct surface-mining operations. This "right to enter" is granted through a surface use agreement with the landowner.

### **2.4.4 Stipulations for Leasing**

The coal-screen unsuitability criteria and multiple-use criteria have identified areas that may be included for leasing consideration with stipulations. The following CLSs have been proposed and have been developed from the 1994 RMP as well as BLM policy documents. Areas may be open to federal coal leasing under Standard Lease Terms and Conditions and any specific stipulations (management decisions) as defined in the 1994 RMP, as amended, or this RMPA. Federal coal estate can be considered acceptable for further consideration in the leasing process by application of stipulations. Stipulations are provisions that modify the standard lease rights and are attached and made a part of the lease. Existing stipulations

from the 1994 RMP address Criterion 3 and the multiple-use conflict identified for wetland areas. The existing stipulations are:

- **CLS-1 – RIGHT-OF-WAY (ROW):** If it is impractical to relocate the right-of-way (ROW), surface mining will be prohibited within the ROW and to within a 100-foot buffer zone from the outside of the ROW. Relocation approval of both the holder and issuing parties involved in the ROW would be required.
- **CLS-2 – DWELLINGS:** The coal lessee will consult with the owners of occupied dwellings and maintain or, with the owner's written consent, adjust the designated 300-foot buffer zone.

**CLS-3 – WETLAND PROTECTION:** All or portions of the lands under this lease contain wetland and/or riparian areas. The lessee will not conduct surface disturbing activities on these areas without the specific waiver, in writing, of the Authorized Officer after consultation with ODM, OSM, and U.S. Army Corps of Engineers (USACE). Impacts or disturbance to wetlands and riparian habitats that occur on the lease, must be avoided, minimized, or compensated. The mitigation goal will be no net loss of in-kind habitats. The mitigation shall be developed in cooperation with appropriate state and federal agencies. The wetland/riparian stipulation is mandated by Executive Order 11990 – Protection of Wetlands of May 24, 1977.

- **CLS-4 – AMERICAN BURYING BEETLE PROTECTION:** The lessee will not conduct surface-disturbing lease activities that will result in unacceptable impacts on the American burying beetle, a federally listed endangered species. The lessee may be required to arrange for a qualified biologist to conduct field surveys, which could result in beetle removal and transplant efforts. Such transplant efforts must be accomplished no more than one year before surface-disturbing activities are to begin. Survey requirements, transplant efforts, and ESA coordination/consultation will be cooperatively accomplished with the USFWS. This stipulation would be attached to federal coal leases that occur in Bryan, Cherokee, Haskell, Latimer, LeFlore, Muskogee, Pittsburg, Sequoyah, and Tulsa counties.

In addition, BLM employs a standard overall stipulation for cultural resources that is not specifically stated in the 1994 RMP. The standard BLM stipulation for cultural resources states:

**CLS-5 – CULTURAL RESOURCES:** Before undertaking any activities that may disturb the surface of the leased lands, the lessee shall conduct a cultural resource intensive field inventory in a manner specified by the Authorized Officer of the BLM or of the surface-managing agency, if different, on portions of the mine-plan area and adjacent areas, or exploration area, that may be adversely affected by lease-related activities and that were not previously inventoried at such a level of intensity. The inventory shall be conducted by a qualified professional cultural resource specialist (i.e., archaeologist, historian, historical architect, as appropriate), approved by the Authorized Officer of the surface-managing agency (BLM, if the surface is privately owned), and a report of the inventory and recommendations for protecting any cultural resources identified shall be submitted to the Assistant Director of the Midcontinent Region of the OSM, the Authorized Officer of the BLM, if activities are associated with coal exploration outside an approved mining permit area (hereinafter called Authorized Officer), and the Authorized Officer of the surface-managing agency, if different. The lessee shall undertake measures, in accordance with instructions from the Assistant Director, or Authorized Officer, to protect cultural resources on the leased lands. The lessee shall not commence the surface-disturbing activities until permission to proceed is given by the Assistant Director or Authorized Officer. The lessee shall protect all cultural resource properties within the lease area from lease-related activities until the cultural resource mitigation measures can be implemented as part of the approved mining and

reclamation or exploration plan. The cost of conducting the inventory, preparing reports, and carrying out mitigation measures shall be borne by the lessee. If cultural resources are discovered during operations under this lease, the lessee shall immediately bring them to the attention of the Assistant Director or Authorized Officer, or the Authorized Officer of the surface-managing agency, if the Assistant Director is not available. The lessee shall not disturb such resources except as may be subsequently authorized by the Assistant Director or Authorized Officer. Within two working days of notification, the Assistant Director or Authorized Officer will evaluate or have evaluated any cultural resources discovered and will determine if any action may be required to protect or preserve such discoveries. The cost of data recovery for cultural resources discovered during lease operations shall be borne by the surface-managing agency unless otherwise specified by the Authorized Officer of the BLM or of the surface-managing agency, if different. All cultural resources shall remain under the jurisdiction of the United States until ownership is determined under applicable law.

Finally, to meet the BLM’s responsibilities to protect migratory bird habitat per the MBTA, as amended, and Executive Order 13186 of January 19, 2001, the BLM has developed a stipulation to be applied to surface-disturbing activities in the Milton and Liberty Planning Area:

- **CLS-6 – MIGRATORY BIRD HABITAT:** If surface disturbing activities occur during the period of March 1 and July 30, surveys for ground and tree nesting birds will be conducted by an entity approved by the Field Office. If active nests are encountered, surfacing disturbing activities will be delayed until the nesting activities are complete. Concurrence by the USFWS Oklahoma Ecological Services Office will be required for compliance.

**2.4.5 Coal-Screening Results**

The results of the four coal screens outlined in this section and relevant to the environmental analysis are summarized in Table 2-2 and Table 2-3.

**TABLE 2-2  
POTENTIALLY DEVELOPABLE COAL (ACRES)**

Application Area	Acres with Development Potential		Acres Affected by Unsuitability Criteria After Stipulations	Acres Carried Forward With Unsuitability Stipulations	Acres Affected by Multiple-Use Conflicts after Stipulations	Acres Carried Forward with Multiple-Use Stipulations
	Surface*	Under-ground				
Milton	290	0	1.4	288.6	26.3	263.7
Spiro	0	790	0	790	0	790.0
Liberty	1,620	0	137.6	1,482.4	297.1	1,322.9
McCurtain	0	1,300.62	0	1,300.62	0	1,300.62
<b>Total</b>	<b>1,910</b>	<b>2,090.62</b>	<b>139</b>	<b>1,861.62</b>	<b>323.4</b>	<b>3,677.22</b>

\* Contingent upon surface owner consent.

**TABLE 2-3  
POTENTIALLY DEVELOPABLE COAL (TONS)**

Application Area	Development Potential (tons)		Tons Affected by Unsuitability Criteria after Stipulations	Tons Carried Forward with Unsuitability Stipulations	Tons Affected by Multiple-Use Conflicts after Stipulations	Tons Carried Forward with Multiple-Use Stipulations
	Surface*	Under-ground				

Milton	567,000	0	2,737	564,262	51,421	515,579
Spiro	0	4,456,000	0	4,456,000	0	4,456,000
Liberty	1,394,000	0	118,404	1,275,596	255,653	1,138,347
McCurtain	0	3,610,000	0	3,610,000	0	3,610,000
<b>Total</b>	<b>1,961,000</b>	<b>8,066,000</b>	<b>119,057</b>	<b>9,907,943</b>	<b>307,074</b>	<b>9,719,926</b>

\* Contingent upon surface owner consent.

## 2.5 DESCRIPTION OF ALTERNATIVES

Based on laws, regulations, and policies; issues identified during scoping; BLM's management concerns; results of the four coal screens; and the information base developed in the Analysis of Management Situation, three management alternatives were formulated that represent a range of reasonable alternatives.

### 2.5.1 Management Alternatives Considered

#### 2.5.1.1 No Action Alternative—Alternative A

Under Alternative A, the Planning Area addressed in this document would not be made available for leasing, and only those tracts of land included previously in the 1994 RMP and 1994, 1996, or 2004 amendments would be considered for leasing.

#### 2.5.1.2 Maximum Coal Development—Alternative B

Under Alternative B, the Planning Area would be made available for leasing, allowing for potential development of all lands within the leased areas with the exception of those lands considered to be unsuitable for development (in accordance with the unsuitability criteria of the coal screen [BLM 2011a]). The estimated total number of acres within the four areas considered at this time as unsuitable for development, after stipulations, is approximately 139 acres, which is about 3.5 percent of the total 4,000.62 acres. The unsuitable areas are located in the Liberty LBA and Milton Lease Modification areas. Table 2-4 presents a summary of the area unsuitable for development for each area under Alternative B.

#### 2.5.1.3 Balanced Coal Development and Other Resource Protection—Alternative C

Under Alternative C, the Planning Area would be made available for leasing, allowing for potential development of all lands within the leased areas with the exception of those lands considered to be unsuitable for development (1) in accordance with the unsuitability criteria and (2) considering the results of the multiple-use screen, which identified wetlands, stream, and riparian zones as well as potential archaeological and historical sites, potential habitat for special status wildlife species, and potential conflict with existing land uses. The estimated total number of acres within the Planning Area considered at this time as unsuitable for development, after stipulations and the multiple-use screen, is approximately 323 acres, which is about 8.1 percent of the total 4,000.62 acres. Table 2-4 presents a summary of the area unsuitable for development for each area under Alternative C.

**TABLE 2-4  
AREAS CONSIDERED UNSUITABLE FOR  
DEVELOPMENT FOR ALTERNATIVES B AND C**

Area	Total Acres	Area Considered Unsuitable (acres)	Percent of Total Considered Unsuitable	Area Considered Suitable (acres)
<b>Alternative B (unsuitable areas excluded only)</b>				
Milton	290.00	1.4	0.5	288.6
Spiro	790.00	Not applicable <sup>1</sup>	0.0	790.0
Liberty	1,620.00	137.6	8.5	1482.4
McCurtain	1,300.62	Not applicable <sup>1</sup>	0.0	1300.62
<b>Total</b>	<b>4,000.62</b>	<b>139.0</b>	<b>3.5</b>	<b>3861.62</b>
<b>Alternative C (multiple-use screen and unsuitable areas)<sup>2</sup></b>				
Milton	290.00	26.3	9.0	263.7
Spiro	790.00	0.0	0.0	790
Liberty	1,620.00	297.1	18.3	1322.9
McCurtain	1,300.62	0.0	0.0	1300.62
<b>Total</b>	<b>4,000.62</b>	<b>323.4</b>	<b>8.1</b>	<b>3677.22</b>
	NOTES: <sup>1</sup> Planning Area exempt from Alternative C criteria due to proposed underground mining. <sup>2</sup> Although known cultural resource sites were not mapped in detail and site area is not included in the calculation of acreage, site area is not anticipated to add substantively to the acreage considered unsuitable for development under Alternative C.			

#### 2.5.1.4 Alternative Considered but Not Analyzed in Detail

A fourth alternative of Balanced Coal Development and Other Resource Protection using the 1994 Coal Lease Stipulation 4 was considered, but not further analyzed given that the American burying beetle conservation measures outlined in that stipulation were no longer valid according to the USFWS. The CLS-4 stipulation from the 1994 RMP has been revised to reflect current USFWS American burying beetle protocols and conservation measures.. This alternative was not considered because it is not consistent with ESA and FLPMA and therefore did not conform with the purpose and need of the RMPA.

#### 2.5.2 Comparison of Alternatives

The three alternatives are distinguished from one another by the type and degree of constraints.

- **Alternative A – No Action Alternative** – The Planning Area would not be made available for leasing and, therefore, no subsequent development would result.
- **Alternative B – Maximum Coal Development** – The Planning Area would allow development of all lands made available for leasing within the Planning Area except for those lands considered at this time to be unsuitable for development, which amounts to approximately 139 acres. These unsuitable lands include ROWs and easements; buffer zones of ROWs, communities, and buildings; floodplains; and municipal watersheds.
- **Alternative C – Balanced Coal Development and Other Resource Protection** – The Planning Area would allow development of all lands made available for leasing within the Planning Area except for those lands considered unsuitable for development under Alternative B and, in addition, wetland, stream, and riparian areas and cultural resources would be considered

unsuitable for development. Similar to the Unsuitability Analysis, areas being proposed for underground mining were considered exempt from the criteria for Alternative C. Wetland and cultural resource areas add 184.4 acres to the 139 acres from Alternative B, totaling 323.4 acres. It should be noted that, although known cultural resource sites were not mapped and site area is not included in the calculation of acreage, site area is not anticipated to add substantively to the acreage considered unsuitable for development under Alternative C.

### **2.5.3 Preferred Alternative (Proposed Action)**

The BLM's Preferred Alternative is Alternative C – Balanced Coal Development and Other Resource Protection.

## REFERENCES

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Farrell-Cooper, Inc. 2013. Personal Communication from Robert Cooper, October 7, 2013.

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