

DECISION RECORD
BLM DETERMINATION OF NEPA ADEQUACY (DNA) – WY-070-DNA15-124
Peabody Caballo Mining, LLC (Peabody Coal or Peabody)
Caballo Clinker (“Scoria”) Mine, WYW-168502
Bureau of Land Management, Buffalo Field Office, Wyoming

DECISION: BLM approves Peabody Caballo Mining’s Caballo Clinker (“Scoria”) Mine, non-competitive sale, WYW-168502, as described in DNA WY-070-DNA15-124, incorporated here by reference. This project is the result of collaboration between the BLM Buffalo Field Office (BFO) and Peabody Caballo Mining, LLC (Peabody Coal or Peabody). This project involves the removal of up to, but not exceeding, 350,306 cubic yards (CY) of clinker (“scoria”) from an existing approximately 120-acre mine on federally-owned mineral estate over 5 years’ time; current disturbance on this portion is approx. 38.3 acres. This area consists entirely of privately-owned surface and BLM-administered mineral lands, indicated below. Surface disturbance will be inclusive of all support infrastructure including the mine, staging areas, etc.

Compliance. This decision complies with:

- Federal Land Policy and Management Act of 1976 (FLPMA) (43 USC 1701); Interior Department Order 3310.
- The Materials Act of 1947 (30 USC 601 et seq.), as amended; 43 CFR 3600 et seq.
- National Environmental Policy Act of 1969 (NEPA) (42 USC 4321).
- Buffalo Resource Management Plan (RMP) and amendments 1985, 2001, 2003, 2011.
- Supplement to Memorandum of Understanding No. WY 19 Between the US DOI BLM, Wyoming State Office, and the State of Wyoming DEQ LQD for Management of Surface Mining and Exploration for Mineral Materials (Salable Minerals) on Public Lands; 2013.
- Greater Sage-Grouse Habitat Management Policy on Wyoming BLM Administered Public Lands (WY-IM-2012-019) and Greater Sage-Grouse Interim Management Policies and Procedures (WO-IM-2012-043).

The following summarizes details of the approval. The project description and site-specific mitigation measures are found in the DNA document (WY-070-DNA15-124).

County	Feature	Twn	Rng	Sec.	Subdivision	Approx. Acres
Campbell	Peabody Caballo Mining, LLC, Caballo Clinker (“Scoria”) Mine	48 N.	71 W.	26	W2 Lot 2, E2 Lot 3, & Lots 6 and 7	120
TOTAL (NOTE: Approx. 38.3 acres are currently disturbed.)						120

Limitations. Approval of this project is dependent on compliance with the attached Special and Standard Stipulations.

THE FINDING OF NO SIGNIFICANT IMPACT. Analysis of the DNA, WY-070-DNA15-124, found the project comports to findings that this type of proposal has no significant impacts on the human environment or that any significant impacts received thorough analyses in supporting NEPA analyses; see the above

DNA. BLM incorporates here by reference the FONSI's, decision records, and records of decision from those analyses named in the DNA. The proposed scoria mine surface was earlier disturbed and is in the confines of the approved Peabody Caballo Coal Mine, thus a new finding (FONSI) is not required.

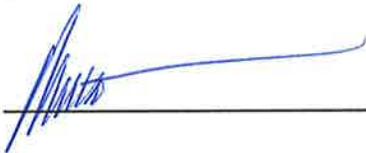
COMMENT OR NEW INFORMATION SUMMARY. Public scoping for noncompetitive sales is not required by 43 CFR 3600, although BLM will post the decision to its website.

DECISION RATIONALE. The BLM approves the project for the following reasons:

1. BLM approves the non-competitive sale as submitted by Peabody to remove 350,306 CY of clinker ("scoria") from approximately 120 acres of BLM-administered minerals, contingent upon compliance with the attached Special and Standard Stipulations.
2. BLM and Peabody Coal included design features and mitigation measures, and adopted here, to reduce environmental impacts while meeting the BLM's need. For a complete description of Special and Standard Stipulations, see the Stipulations document.
 - a. The impact of this development cumulatively contributes to the potential for local extirpation of the Greater Sage Grouse (GSG) yet its effect is acceptable because it is outside priority habitats and is within the parameters of the PRB FEIS/ROD and current BLM (WO-IM-2012-043) and Wyoming (WY-IM-2012-019) GSG conservation strategies.
 - b. With application of Standard Operating Procedures (SOPs), applied mitigation, Required Design Features, and Stipulations identified for GSG under the proposed action, impacts caused by surface-disturbing and disruptive activities would be minimized.
 - c. There are no conflicts anticipated or demonstrated with current uses in the area.
 - d. Three (3) Special Stipulations were added to alleviate impacts to raptors:
 1. No surface-disturbing activity or scoria crushing shall occur within 0.5 miles of all identified raptor nests from February 1 through July 31, annually, prior to a raptor nest occupancy survey for the current breeding season.
 2. Surveys to document nest occupancy shall be conducted by a biologist following BLM protocol, between April 15 and June 30. All survey results shall be submitted in writing to a BLM-BFO Biologist and approved prior to surface-disturbing activities. Surveys outside this window may not depict nesting activity. If a survey identifies active raptor nests, a 0.5-mile timing buffer will be implemented. The timing buffer restricts surface-disturbing activities within 0.5 miles of occupied raptor nests from February 1 to July 31.
 3. If an undocumented raptor nest is located during project construction or operation, the Buffalo Field Office (307-684-1100) shall be notified within 24 hours.
3. The Resource Management Plan (RMP) for the Buffalo Field Office is currently undergoing revision. The Proposed RMP and Final Environmental Impact Statement (FEIS) were released in May 2015. The proposed action was screened against the FEIS to ensure that the proposed action would not preclude BLM's ability to select any alternative in a ROD. The proposed action was also determined to not be inconsistent with the direction outlined in the RMP's Proposed Alternative.
4. The approved project will not result in any undue or unnecessary environmental degradation and complies with 43 CFR 3602.30 through .34, Noncompetitive Sales.
5. The approved project will help meet the nation's Mineral Materials needs.
6. The approved project will help ensure continued public health and safety by meeting needs for nearby road maintenance.
7. The approved project will help stimulate local economies by maintaining workforce stability.
8. The Operator committed to:

- a. Comply with all applicable federal, state, and local laws and regulations.
 - b. Reclaim the mine to the standards in the WY BLM Reclamation Policy found in Appendix A to DNA WY-070-DNA15-124.
9. The Operator certified it has posted an acceptable bond.
 10. This project is not located in or near, nor will it affect, a floodplain, wetland, or riparian area.
 11. The project is clearly lacking in wilderness characteristics as it consists entirely of privately-owned surface over BLM-administered mineral lands.
 12. BLM reviewed the 12 extraordinary circumstances and none apply, 43 CFR 46.215.

ADMINISTRATIVE APPEAL. This decision is subject to administrative review in accordance with 43 CFR 3601.80. Request for administrative review of this decision must include information required under 43 CFR 4 and is appealed to the Interior Board of Land Appeals, as provided in 43 CFR 3601.80 and 43 CFR 4. A party adversely affected by a decision of the authorized officer or State Director made pursuant to subpart 43 CFR 3600, et. al., has the right of appeal to the Interior Board of Land Appeals, Office of Hearings and Appeals, pursuant to 43 CFR 4 and 43 CFR 1840.

Field Manager:  Date: 7-21-15

**BLM DETERMINATION OF NEPA ADEQUACY (DNA), WY-070-DNA15-124
 Peabody Caballo Mining, LLC (Peabody Coal or Peabody)
 Caballo Clinker ("Scoria") Mine, WYW-168502
 Bureau of Land Management, Buffalo Field Office, Wyoming**

OFFICE: BLM, Buffalo Field Office (BFO), 1425 Fort St., Buffalo, WY 82834.

TRACKING NUMBERS: WY-070-DNA15-124.

*Buffalo Resource Management Plan, 1985, and Amendments, 2001, 2003, 2011.

*Development of Coal Resources in the Eastern Powder River Coal Basin of Wyoming, Final Environmental Impact Statement (FEIS), DOI, USDA, ICC, 1974, (hereinafter, Eastern PRB Coal Mining FEIS).

*WY-070-EA10-274, Environmental Assessment (EA), approved December 9, 2010, for Caballo Coal, LLC (aka Powder River Coal Company), Caballo Scoria [Clinker] Mine; see BLM Casefile WYW-170196.

*WY-070-DNA12-047, Determination of NEPA Adequacy (DNA), approved April 10, 2012, for Peabody Caballo Mining, LLC, Caballow Scoria [Clinker] Mine; see BLM Casefile WYW-168330.

*WY-070-EA10-116, Environmental Analysis (EA) approved May 19, 2010, for Alpha Coal West, Eagle Butte Scoria [Clinker] Mine; see BLM Casefile WYW-170067.

*WY-070-EA10-308, Environmental Analysis approved December 9, 2010, for Alpha Coal West, Belle Ayr Scoria [Clinker] Mine; see BLM Casefile WYW-170201.

* The BLM incorporates these NEPA documents by reference here because of substantially similar proposed mining operations, geography, and/or other resource issues.

BLM CASEFILE NO.: WYW-168502.

TITLE OF PROPOSAL: New Sales Contract for existing Caballo Clinker ("Scoria") Mine.

PROPOSED ACTION: Mine and remove 350,306 cubic yards (CY) of clinker ("scoria") from federally-owned minerals portion of existing approximately 120-acre mine over 5 years' time; current disturbance on this portion is approximately 38.3 acres.

LEGAL DESCRIPTION:

County	Feature	Tw	Rng	Sec.	Subdivision	Approx. Acres
Campbell	Peabody Caballo Mining, LLC, Caballo Clinker ("Scoria") Mine	48 N.	71 W.	26	W2 Lot 2, E2 Lot 3, & Lots 6 and 7	120
TOTAL (NOTE: Approx. 38.3 acres are currently disturbed.)						120

APPLICANT: Peabody Caballo Mining, LLC (Peabody), P.O. Box 3041, Gillette, WY, 82717.

A. Description of the Proposed Action and Any Applicable Mitigation Measures:

Peabody submitted a new Sales Contract (incorporated here by reference) proposing to continue mining and removing mineral materials (here, clinker, often locally called “scoria” as it sometimes resembles that volcanic rock) from their existing Caballo Clinker (“Scoria”) Mine. They propose to remove 350,306 cubic yards (CY) from the mine over a 5-year period, per 43 Code of Federal Regulations (CFR) 3602.30. The Clinker Mine occurs entirely within the confines of the existing Peabody Caballo Coal Mine. The Coal Mine began construction in 1976 and operations in 1978 under the Carter Mining Co.; Peabody Caballo Mining, LLC (Peabody) purchased it in 1998 (US Department of Labor Mine Safety and Health Administration website (<http://www.msha.gov/drs/ASP/BasicMineInfonew.asp>), accessed May 26, 2015). The Coal Mine currently holds more than 7,100 acres of federal coal leases. Peabody mines the Smith and Wyodak-Anderson coal seams (also called Canyon and Upper Wyodak, respectively), low ash, low sulfur, sub-bituminous coals (BLM Final Environmental Impact Statement (FEIS) for the South Gillette Area Applications, 2009). These coal seams occur within the Tongue River Member of the Fort Union Formation (Fmn), the surface formation in the area. Subbituminous is a lower rank (carbon content, roughly equating to calorie or heat content) than anthracite, the highest coal rank. However, Powder River Basin (PRB) subbituminous coals also have much lower ash and sulfur contents than many US coals with higher calorie contents, and are much cleaner burning (producing fewer sulfur oxides and fly ash). Peabody will use the clinker exclusively to maintain safety of the Coal Mine’s roads.

Normally, there are volume limitations for Mineral Materials sales. BLM will not approve multiple noncompetitive sales exceeding 300,000 CY (or weight equivalent (WE) in tons) per State per 12 consecutive months to one purchaser (per 43 CFR 3602.31(c)). Also, BLM may not sell more than 200,000 CY (or WE) per noncompetitive sale (per 43 CFR 3602.31(a)). Federal lessees intending to use federal Mineral Materials in lease development are restricted to 200,000 CY (or WE) per State per 12 consecutive months (43 CFR 3602.33(a)). However, Caballo Coal holds a Volume Limitation Waiver issued by BLM Wyoming State Office (WSO) on July 27, 1995. BLM WSO determined it would be impossible to obtain competition for the clinker mines’ location (within the coal mine), making safety and liability concerns paramount. Also, clinker is plentiful outside the mine. As the same company is mining from the same location, the Waiver still holds.

The clinker mine is approximately 14 miles south of Gillette and 6 miles east of State Highway 59 along Bishop Road (County Road (CR) 12). It is approximately 1 mile northeast of the Coal Mines’ main buildings. This new contract was assigned BLM serial casefile number WYW-168502. This sale is for federally-administered minerals; Peabody owns the surface estate at the site. See Figs. 1 through 3. The mining operation is currently, and will continue to be, permitted by Wyoming Department of Environmental Quality (WDEQ) Land Quality Division (LQD) under Permit to Mine #PT433.

The topography in/near the Mine area consists of gently rolling hills and valleys in the eastern half of the PRB. Locally higher areas often contain exposed or semi-exposed clinker within the Tongue River Member, the uppermost member of the Tertiary-age Fort Union Fmn. This member consists of thick beds of yellow sandstone interbedded with gray/black shales and numerous coal seams. In the Mine area, these rock types are abundant subsurface, and exposed in valleys, creek channels, and road cuts in/near the Mine and in Mine highwalls. The Clinker Mine covers a moderately-sized low hill of semi-exposed clinker (see Fig. 3). The clinker formed when subsurface coal seams became exposed from erosion or mass wasting and caught fire through wildfires, lightning strikes, or spontaneous combustion, and baked the rocks above and below. Elevation at the Mine is approx. 4,500.’ The nearest creeks are Caballo and Tisdale, less than 1 mile S and approx. 1 mile N (respectively) of the project area.

Starting in approx. 2008, all PRB coal mines began experiencing a downturn in production. This has been largely due to the US making more concerted efforts to invest in technology and infrastructure needed to utilize more “green” energy alternatives. That continued downturn is now slowly turning around: as utility companies exhaust their previously-stockpiled coal, the US and world electricity demand continues increasing, and the US and the world realizing many “green” energy alternatives require vastly larger investment of funds and lands than previously understood, and these may not yet be able to produce the desired electricity output. The lowered production from the Coal Mine had led to decreased need for clinker; this is also turning around, and Peabody needs to ensure sufficient clinker is available to use.

The recent decreases in the Coal Mine’s production led to Peabody’s not using all clinker contracted under the last three BLM Sales Contracts (BLM serial casefiles WYW-170057, WYW-170196, and WYW-168330, approved respectively December 8, 2009, December 9, 2010, and April 10, 2012). In fact, the current contract (WYW-168330) was extended 1 year, at their written request; such requests must meet the requirements of 43 CFR 3602.27. This clinker mine is the only source Peabody currently uses for obtaining clinker; Peabody, did however, recently seriously consider purchasing clinker elsewhere (personal communications (pers. comm.) with David Wadsack of Peabody, between 2010 and 2012). David Wadsack, the Coal Mine’s Senior Engineer, conducted a cost analysis and determined that purchasing prepared clinker from a contractor in the needed volume would be more expensive than continuing to utilize Federally-owned clinker, and rent equipment and have their own personnel mine and process the clinker (pers. comm. with David Wadsack, late 2011 to early 2014). An added and very important benefit was that this kept Peabody Coal from laying off personnel during the downturn, while all other coal mines did (pers. comm. with David Wadsack, 2012 to 2014). To provide electricity for the equipment, Powder River Electricity Corp. (PRECORP) added several poles and re-routed electricity from existing lines just north of the clinker mine (see Fig. 3a). These poles will remain in place until no longer needed; likely not until Peabody’s Caballo Coal Mine production rises such that mining and processing clinker themselves is no longer cost-effective (pers. comm. with David Wadsack, 2012 to 2014).

Much clinker in the PRB overlies coal seams; relatively little occurs subsurface. In certain areas of the PRB, clinker must be removed as part of the overburden overlying the coal so the coal can be exposed and mined via open-pit methods. If the clinker is of low quality, or if it occurs in such high abundance that it cannot all be used for mineral purposes, all or portions may remain part of the overburden. Overburden is essentially unusable rock and sediment, and is returned to mined-out areas as fill to attain appropriate post-mining topography prior to surface reclamation of those areas. Any clinker in the overburden that is not, or cannot be, separated out and used for mineral purposes (such as for road cover) becomes part of the waste/fill. Clinker quality is extremely variable, even within short distances, both vertically and horizontally. It is comprised of the sediments, soils, and other materials that had overlain and underlain a coal seam that had caught fire and burned, baking and sometimes melting these overlying and underlying materials. The only way to be certain regarding its’ quality, and its’ extent, is to conduct exploration activities using drilling and/or trenching.

In and near this clinker mines’ location, the underlying coal seam(s) will almost certainly not be mined as it’s relatively close to essential mine facilities and roads; moving these would be extremely costly, very likely more than the coal may be worth (pers. comm. with David Wadsack, September 2010 to May 2015). The clinker mine is bounded on two sides (roughly north and west) by reclaimed coal mine lands just beyond the access road surrounding the mine (see Fig. 1) (pers. comm. with David Wadsack, September 2010 to May 2015), and a third side (roughly east) is bounded by a producing oil well (see Figs. 1, 2, 3a, 3c, 5a, and 5b). Under the seeded re-placed topsoil, the reclaimed coal mine lands consist of a thick layer of mixed materials (80-100’ thick, or greater) of mixed subsoil and overburden, and other

unusable materials removed during coal mining (pers. comm. with David Wadsack, September 2010 to May 2015). No clinker deposits remain in these lands. Only a relatively narrow strip of native lands occurs along the west side, and much clinker there is not of sufficient quality for the intended use (see Figs. 1, 2, 3a, and 3b). Additionally, some wildlife have made homes in the west highwall (see Figs. 4a through 4c). The fourth side (roughly south) has not undergone coal mining (pers. comm. with David Wadsack, September 2010 to May 2015), and does appear to contain clinker deposits.

As noted above, expansion of much the clinker mine's east side is hampered for some time into the future by the producing oil well. Much of this highwall appears to contain clinker of sufficient quality, except the northernmost portion (see Figs. 1, 3a, and 3c). However, Peabody has no plans to determine this clinker's quality; it is believed that sufficient clinker remains in the current disturbance footprint to satisfy the Coal Mine's needs for at least the intended 5-year timeframe of this proposed new Sales Contract, and possibly longer (pers. comm. with David Wadsack of Peabody, February to May 2015). The oil well is Prima Exploration's Malmquist #13-26 (see Figs. 1, 2, 3a, 3c, 5a, and 5b), producing from the Minnelusa Fmn (Wyoming Oil and Gas Conservation Commission (WOGCC) website, last accessed May 20, 2015). Current production is roughly 30 barrels (bbls) per month (equal to roughly 1,200 bbls per year), although its' production was much greater in the past (WOGCC, May 20, 2015). The well has been consistently producing since it was completed in 1984, though its' production has also been consistently declining (WOGCC, May 20, 2015). This is currently the only producing well remaining on the oil/gas lease (BLM LR2000 electronic database, last accessed May 20, 2015). This lease is thereby "held by production"; as long as the price of the oil continues to cover the cost of its production, the lease remains solvent. Some discussion regarding this well has occurred in the past between Peabody and the well's owner, although there are no further plans to resume any discussions (pers. comm. with David Wadsack of Peabody, September 2010 to May 2015). The next area east of the clinker mine (Lot 8) is all Federal minerals; a BLM Sales Contract would be needed to mine this area.

As noted earlier, the fourth side (roughly south) has not undergone coal mining and almost certainly will not (pers. comm. with David Wadsack of Peabody, September 2010 to May 2015). Although this side also appears to contain some clinker, Peabody has no plans to explore this area either (pers. comm. with David Wadsack of Peabody, February to May 2015). This side is the likely direction for future expansion, however, as the clinker appears to be of adequate quality (see Figs. 1, 3a, and 3c). This direction is somewhat limited, being bounded approximately ½-mile south by Bishop Road (CR 12) (see Fig. 2). There are also two oil wells in this area (see Fig. 2), and Peabody is currently leasing the area for livestock grazing (pers. comm. with David Wadsack of Peabody, February to May 2015). The status of these wells is unknown, although David plans to visit them to gain more information about them (pers. comm. with David Wadsack of Peabody, May 20, 2015). It is uncertain what the terms of the grazing lease(s) are, and it is also uncertain if David will attempt to determine this. If any of this area (south) were to be mined, it would not need to be included in a BLM Sales Contract: it is a mixture of all private minerals (SE quarter, south of Lots 7 and 8) and only Federal coal (Lots 9 and 12, south of Lot 6).

Approximately 38.3 acres of BLM-administered mineral lands are currently disturbed from clinker mining activities (see Figs. 1 and 2). No further disturbance is anticipated during the proposed Sales Contract's timeframe of 5 years. After all usable clinker has been mined and removed, the clinker mine will be closed and reclaimed; exhausted areas may be reclaimed sooner. Reclamation of the clinker mine is not anticipated during the 5-year timeframe of this proposed Sales Contract, however. When reclamation is undertaken, it will occur according to the current Coal Mine permit (PT433).

To expand the mine, vegetation and the relatively thin topsoil will need to be removed. Peabody will

remove and stockpile the topsoil (up to 6" thick) for later reapplication during reclamation of the site. A track dozer will be used to excavate the in-place clinker, and the dozer or a wheel loader will be used to tram it to an elevated feeder. The feeder will screen out the fines, which are unusable, and feed the remaining material to a horizontal impact crusher. Material too large to be crushed will be set aside, and along with fines and other unusable materials, be placed back in the mine as fill during the reclamation process. The crushed material will then be fed through a 2" screen, and materials 2" or smaller will be transported via conveyor belt to a stockpile. Material from the crusher that is larger than 2" will be fed back into the crusher. All crushing and stockpiling equipment will be fed by the existing temporary powerlines running into the mine from the larger powerlines just north of the mine; only the mobile equipment (dozer and loader) will run on diesel fuel. No blasting should be needed. From pers. comm. with David Wadsack of Peabody, September 2011 to May 2015.

DNA WY-070-DNA15-124 tiers to BLM's 1985 Buffalo FEIS, the 2003 PRB FEIS (WY-070-02-065), and Eastern PRB Coal Mining FEIS, and 2010 EA WY-070-EA10-274 for this clinker mine, which concluded that either no significant impacts would result to other resources should that proposed action occur (the coal mine), or that the impacts were acceptable. BLM treats this proposal as a new Sales Contract, as the terms of the former Sales Contract (WYW-168330) were filled, per 43 CFR 3602.22(a). This proposal is consistent with regulations (43 CFR 3602.31(a) and (c), and .33(a)), and the terms of the current Sales Contract, and does not involve a substantive change requiring additional NEPA analysis.

Previous ground disturbance associated with the existing mine has modified the surface so extensively that the probability of finding intact cultural properties is negligible. On March 16, 2015, the BLM notified the Wyoming State Historic Preservation Office following section V(E)(iii) of the 2014 Wyoming State Protocol. No cultural resources or historical properties exist within the proposed clinker mine area.

BLM Biologist Wyatt Wittkop conducted an on-site inspection on March 30, 2015. The current affected environment is similar to that previously described in ICF International, LLC's (ICF's), 2010 Annual Wildlife Monitoring Report, for the Caballo [Coal] Mine, incorporated here by reference. According to ICF's 2015 Wildlife Report, currently there are 7 raptor nests (3 intact) observed within 0.5 miles of the clinker mine, compared to 8 raptor nests in the 2010 Report. Effects to nests in the area will remain the same as previously analyzed in EA WY-070-EA10-274. One Great-horned Owl nest occurs in the western highwall (see Figs. 4b and 4c); this nest was active in 2010 and in 2014, with 2 chicks fledging each of those years. Wildlife resources remain unchanged, other than the Wyoming Game and Fish Department (WGFD) updating the Gold Mine GSG lek from occupied to unoccupied since the previous analysis (2012, for contract WYW-168330). This lek has been inactive since 2002. The mitigation measures incorporated in the clinker mine's current Sales Contract (WYW-168330) and coal mine permit (PT433) will suffice to protect the nesting raptors. Peabody has committed to monitoring raptor nests in the area for the life of the mine, and has a US Fish and Wildlife Service (USFWS)-approved Migratory Bird Species of Management Concern and Raptor Monitoring and Mitigation Plan.

Mitigation Measures and Monitoring:

1. Standard Stipulations are included in this DNA; see below. Mitigation measures and monitoring are also grandfathered into the permit for the Caballo Coal Mine.
2. Reclamation will be accordance with the reclamation guidelines in Appendix 1 and those approved for the Caballo Coal Mine. In the event of any conflict in reclamation measures, BLM will apply the measure most favorable for reclamation as determined by scientists and BLM specialists.

B. Conformance with the Land Use Plan (LUP) and Consistency with Related Subordinate Implementation Plans, Laws, Regulations, and Policies:

LUP: Buffalo Resource Management Plan (RMP), 1985; Amendments 2001, 2003, and 2011.

The proposal conforms to the applicable LUP, as is provided for in the LUP decisions indicated below.

The 1985 Buffalo RMP Record of Decision (ROD) provides for development of Salable Minerals (Mineral Materials) (p. 16), as well as Leasable Minerals, such as coal, and oil/gas (pp. 14-16). BLM-administered locatable minerals remain subject to the provisions of the General Mining Law of 1872, as amended (p. 16). The 1985 ROD also provided for protections from surface disturbances:

Cultural surveys prior to disturbances in certain areas (p. 7).

Buffer restrictions around springs, reservoirs, waters wells, and perennial streams (pp. 17-18).

Biological buffers and timing restrictions for Raptors (pp. 19-20) and Sage-Grouse (p. 19).

One of the 2001 Buffalo RMP Amendment's management objectives is to maintain or enhance opportunities for mineral exploration/development while maintaining other resource values (p. 8). The RMP specifically addressed development of Salable (p. 13), Locatable (pp. 12-13), and Leasable Minerals (pp. 9-12). The 2001 Amendment also provided for protections from surface disturbances:

Cultural surveys prior to disturbances (pp. 4-5 and Appendix A).

For Paleontological Resources (pp. 20-22 and Appendix A).

Buffers around surface water and riparian areas (pp. 35-37 and Appendix A).

Biological buffers and timing restrictions for Raptors and sage-grouse (p. 38 and Appendix A).

The scope of the 2003 Amendment is generally limited to fluid Leasable Mineral (oil/gas) development, although the analysis concluded Salable Minerals in the region were stratified above the oil/gas minerals (pp. 4-129). This Amendment has valuable sections on soil and water conservation and reclamation.

The 2011 Amendment focused on the Fortification Creek Planning Area and has no bearing here.

The RMP for the Buffalo Field Office is currently undergoing revision. The Proposed RMP and FEIS were released in May 2015. The proposed action was screened against the Proposed RMP to ensure that the proposed action would not preclude BLM's ability to select any alternative in a ROD. The proposed action was also determined to not be inconsistent with the direction outlined in the Proposed RMP.

Other applicable laws, regulations, and policies:

- Title 43 of CFR 3600 (43 CFR 3600), Mineral Materials Disposal:
 - In order to explore and/or develop federally-administered Salable Minerals for commercial use (to sell) or for free-use (for use by governmental entities and applicable non-profit organizations), BLM must authorize the activity (per 43 CFR 3601.30, 3601.71(a), and 3604.12).
 - All Salable Minerals actions are reviewed to ensure compliance with the bonding policy for surface-disturbing activities (per 43 CFR 3602.14).
- Memorandums of Understanding (MOUs) between BLM and State of Wyoming for Mineral Materials:
 - MOU Between the Governor of Wyoming and the United States By and Through the State Director, BLM, Wyoming, U.S. Department of the Interior (USDOI); MOU WY-19; 1975.
 - Supplement to Memorandum of Understanding No. WY 19 Between the USDOI BLM and the WDEQ LQD for Management of Surface Mining and Exploration for Mineral Materials (Saleable [sic] Minerals) on Public Lands; 2003.

C. Identify Applicable National Environmental Policy Act (NEPA) Documents and Other Related Documents that Cover the Proposed Action:

List by name and date all applicable NEPA documents that cover the proposed action:

- FEIS...for the PRB Oil and Gas Project, BFO, 2003.
- Buffalo 1985 RMP and amendments 2001, 2003.
- WY-070-EA10-274, for Caballo Coal's Caballo Clinker Mine, 2010.
- WY-070-EA14-198, for Campbell County Road and Bridge Department's Davis Clinker Mine, 2014.
- WY-070-EA12-109, for Quality Aggregate's Recluse Clinker Mine, 2013.
- WY-070-EA10-308, for Alpha Coal West's Belle Ayr Clinker Scoria [Clinker] Mine, 2010.
- WY-070-EA10-274, for Peabody Caballo Coal's Caballo Scoria [Clinker] Mine, 2010.
- WY-070-EA10-116, for Alpha Coal West's Eagle Butte Scoria [Clinker] Mine, 2010.
- WY-070-CX14-416, for Quality Aggregate's Carter Clinker Mine, 2014.

List by name and date other documentation relevant to the proposed action (e.g., biological assessment, biological opinion, watershed assessment, allotment evaluation, monitoring report, etc.):

- Final Biological Opinion for Reinitiation of Formal Consultation with US Fish and Wildlife Service for the Powder River Oil and Gas Project, Campbell, Converse, Johnson, and Sheridan Counties, Wyoming (Formal Consultation No. ES-6-WY-07-F012), 2007.
- GSG Habitat Management Policy on Wyoming BLM Administered Public Lands (WY IM-2012-019).
- GSG Interim Management Policies and Procedures (WO IM-2012-043).
- Caballo Mine 2010 Wildlife Monitoring Report, ICF International, May 2010.
- Caballo Mine 2015 Wildlife Monitoring Report, ICF International, May 2015.

D. NEPA Adequacy Criteria:

1. Is the new proposed activity a feature of, or essentially similar to, an alternative analyzed in the existing NEPA document(s)? Is the project within the same analysis area, or if the project location is different, are the geographic and resource conditions sufficiently similar to those analyzed in the existing NEPA document(s)? If there are differences, can you explain why they are not substantial?

Yes. The proposed action is the continuation of current operations, and therefore consistent with those actions. The resource conditions are similar to those in existing NEPA documents, with essentially no, or insubstantial, changes to other resources having occurred in the intervening period. The BLM finds that the conditions and environmental effects found in the EISs and EAs remain valid. The proposed action is a feature of, and is essentially similar to, the selected alternative in EA #WY-070-EA10-274, Caballo Coal's Caballo Scoria [Clinker] Mine; Buffalo ROD 1985, p. 16; and Buffalo RMP Amendment 2001, p. 4.

2. Is the range of alternatives analyzed in the existing NEPA document(s) appropriate with respect to the new proposed action, given current environmental concerns, interests, and resource values?

Yes. The EA (#WY-070-EA10-274) for the BLM Sales Contract for Caballo Coal's Caballo Scoria [Clinker] Mine analyzed 3 alternatives: 1) the continued mining of clinker ("scoria") in that location, 2) the no-action alternative (not approving the continued mining of clinker ("scoria") in that location), and 3) the mining of clinker ("scoria") elsewhere; see the Finding of No Significant Impact (FONSI), p. 1 and the EA, pp. 1 to 17. This EA also analyzed the proposed action in the light of current environmental concerns and resource values, noting that surface and groundwater will not be affected (pp. 2, 13, and 17), and that wetlands and riparian areas do not exist in the project area (pp. 2, 4, and 13). The EA also noted that there are no soils, erosion, or major reclamation concerns

(pp. 2, 13, and 17), in addition to no concerns for vegetation and invasive species (pp. 2, 13, and 17). This EA's range of alternatives also addressed the environmental concerns to wildlife and raptors (pp. 4 to 16, and 17). The EA noted that there would be little to no impact on grazing (pp. 2 to 3, 9, 13, and 17). The NEPA documents' analysis did not include a discussion of the biological buffers for raptors; however, a special stipulation was added to minimize or mitigate any effects to raptors (p. 17). Disturbance from the proposal will be minimal, similar to approved proposal.

3. Is the existing analysis valid in light of any new information or circumstances (such as, rangeland health standard assessment, recent endangered species listings, updated lists of BLM-sensitive species)? Can you reasonably conclude that new information and new circumstances would not substantially change the analysis of the new proposed action?

Yes. The existing analysis remains valid in light of new information or circumstances given the need for the project. Updated information includes: an order from the Department of the Interior concerned land use plans' consideration of wilderness characteristics in those plans; GSG conservation guidelines outlined in a 2011 Wyoming State Executive Order (#2011-5), and 2012 BLM Instruction Memorandum (WY IM-2012-019). BLM 2012 IM's 2012-043 and -044 also provide GSG policy guidance. These guidelines addressed administrative changes in implementation of projects within GSG habitat. While considered by BFO, neither is relevant in this project proposal as the area has no wilderness characteristics, and the mine area is outside of a GSG core area and not within 2 miles of an occupied lek. The only recently occupied GSG lek within 2 miles of the proposal, Gold Mine Draw, was tilled in 2010 by the private landowner and has been reclassified as unoccupied. Birds have not been seen at this location since 2002, checked annually through 2014. Not unexpectedly, the area's GSG population lek survey results decreased over the years from few to none. This proposal is within the existing, permitted coal mine and will have negligible positive or adverse effect on the area's GSG population.

The BFO's experience shows the design features and mitigation in existing NEPA documents are substantially similar to, and therefore do not substantially change, an analysis of best management practices, design features, and mitigation necessary to provide for the proposed project and to minimize the project's impact on other resources.

The circumstance of allowing and mitigating a surface disturbance within the biological buffer of nesting raptors is addressed in the land use plans and amendments (cited above), and is further discussed in item #4 (below) in the context of direct and indirect effects.

There is no new information that would substantially or moderately change the analysis.

4. Are the direct, indirect, and cumulative effects that would result from implementation of the new proposed action similar (both quantitatively and qualitatively) to those analyzed in the existing NEPA document(s)?

Yes. The direct, indirect, and cumulative effects that would result from implementation of the new proposed Sales Contract for this existing clinker mine are similar quantitatively and qualitatively to those analyzed in the existing NEPA analyses. BLM anticipates no loss of grazing resources. This DNA (WY-070-DNA15-124) for the new Sales Contract (WYW-168502) does not differ from other EAs (WY-070-EA10-116 and WY-070-EA10-308) regarding raptors. Biological buffers for nesting raptors are adequately analyzed in the Buffalo ROD 1985 (p. 19); the 2001 Amendment (p. 38), and; in open-pit mining EAs: WY-070-EA14-198, 2014 (pp. 7 and 9); WY-070-EA12-109, 2013 (pp. 7 to 8, 10 to 11); WY-070-EA10-308, 2010 (pp. 6 and 14); WY-070-EA10-274, 2010 (pp. 13 to 14, and 20);

WY-070-EA10-116, 2010 (pp. 6 and 14); WY-070-CX10-416, 2014 – all incorporated here by reference.

5. Are the public involvement and interagency review associated with existing NEPA document(s) adequate for the current proposed action?

Yes, the public scoping for the Buffalo FEIS 1985, Amendments of 2001 and 2003 (PRB FEIS) were extensive as evidenced with the receipt of thousands of comments. These FEISs, LUPs, and their amendments, established the administrative regulatory foundation for the BFO to implement the surface mining proposed in this new Sales Contract. Furthermore, the BFO extensively posted the EAs for projects on its website and continues an active public outreach and information program. While the BFO continues involving the public and local governmental officials in the decision making process, and the regulations do not require BLM to post, advertise, or bid for noncompetitive sales of this size (43 CFR 3602.31(a)); BFO will post the decision on its website.

E. Persons/Agencies/BLM Staff Consulted:

The following individuals and agencies were consulted and/or contributed to this document:

<u>Name</u>	<u>Title/Resource</u>	<u>Agency</u>
<i>Kurt King</i>	<i>Sr. Environmental Analyst</i>	<i>WDEQ Land Quality Division</i>
<i>David Wadsack</i>	<i>Sr. Mining Engineer</i>	<i>Peabody Caballo Mining, LLC</i>
<i>Clint Crago</i>	<i>Archaeologist</i>	<i>BLM</i>
<i>Wyatt Wittkop</i>	<i>Biologist</i>	<i>BLM</i>
<i>Kerry Aggen</i>	<i>Geologist, and Project Lead</i>	<i>BLM</i>
<i>Tom Bills</i>	<i>Planning & Environmental Coordinator</i>	<i>BLM</i>

Note: Refer to the respective EA/EIS for a complete list of the team members participating in the preparation of the original environmental analysis or planning documents.

Conclusion:

Based on the review documented above, I conclude that this proposal conforms to the applicable land use plan and that the NEPA documentation fully covers the proposed action and constitutes BLM's compliance with the requirements of the NEPA.

 7/20/2015

 Signature of Project Lead

 7/21/2015

 Signature of NEPA Coordinator



 Signature of the Buffalo Field Manager

7-21-2015

 Date

Note: The signed Conclusion on this Worksheet is part of an interim step in the BLM's internal decision process and does not constitute an appealable decision. However, the lease, permit, or decision based on this DNA is subject to protest or appeal under 43 CFR Part 4 and the program-specific regulations.

Figure 1. Aerial photograph of Peabody’s proposed Caballo Clinker (“Scoria”) Mine (WYW-168502). Photo shows entire area of disturbance (totaling approx. 38.3 acres; see also Figures 2 and 3a), access road leading from Coal Mine into Clinker Mine, and Prima Exploration’s Malmquist #13-26 oil well (see also Figures 2, 3a, 3c, 5a, and 5b). Yellow dashed lines are approx. boundaries between reclaimed coal mine lands (to west and roughly north; areas of no clinker) and unmined lands (to east and roughly south; areas where clinker may occur and may be usable), two other oil wells are out of photo approx. ¼-mile to south, and Bishop Road (County Road 12) is approx. ¼-mile south of the two wells (see also Figure 2). Orange dashed lines show approx. boundaries between types of mineral estate. Aerial GoogleEarth photo taken July 26, 2014; accessed and annotated by Kerry L. Aggen, May 2015.

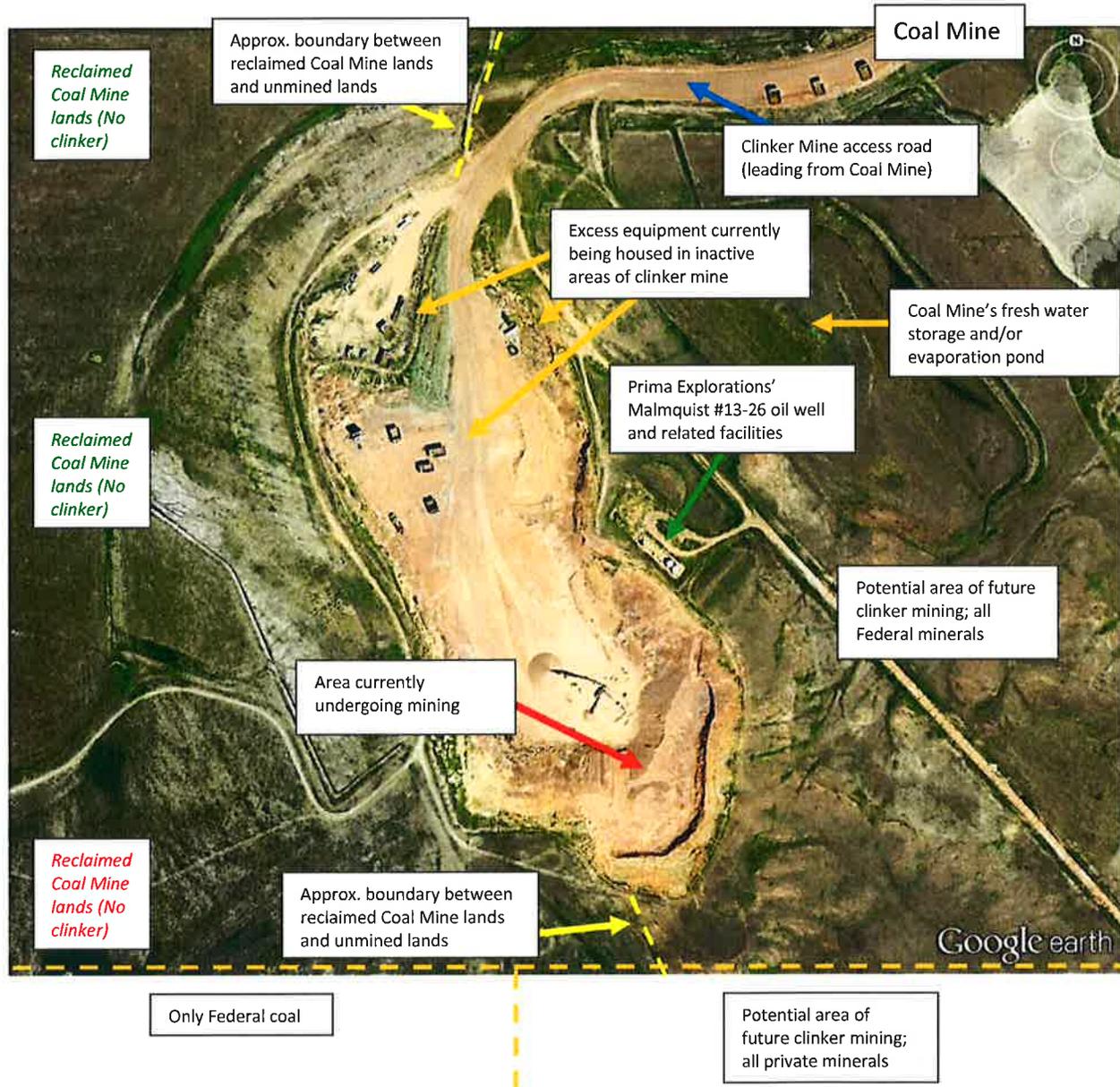
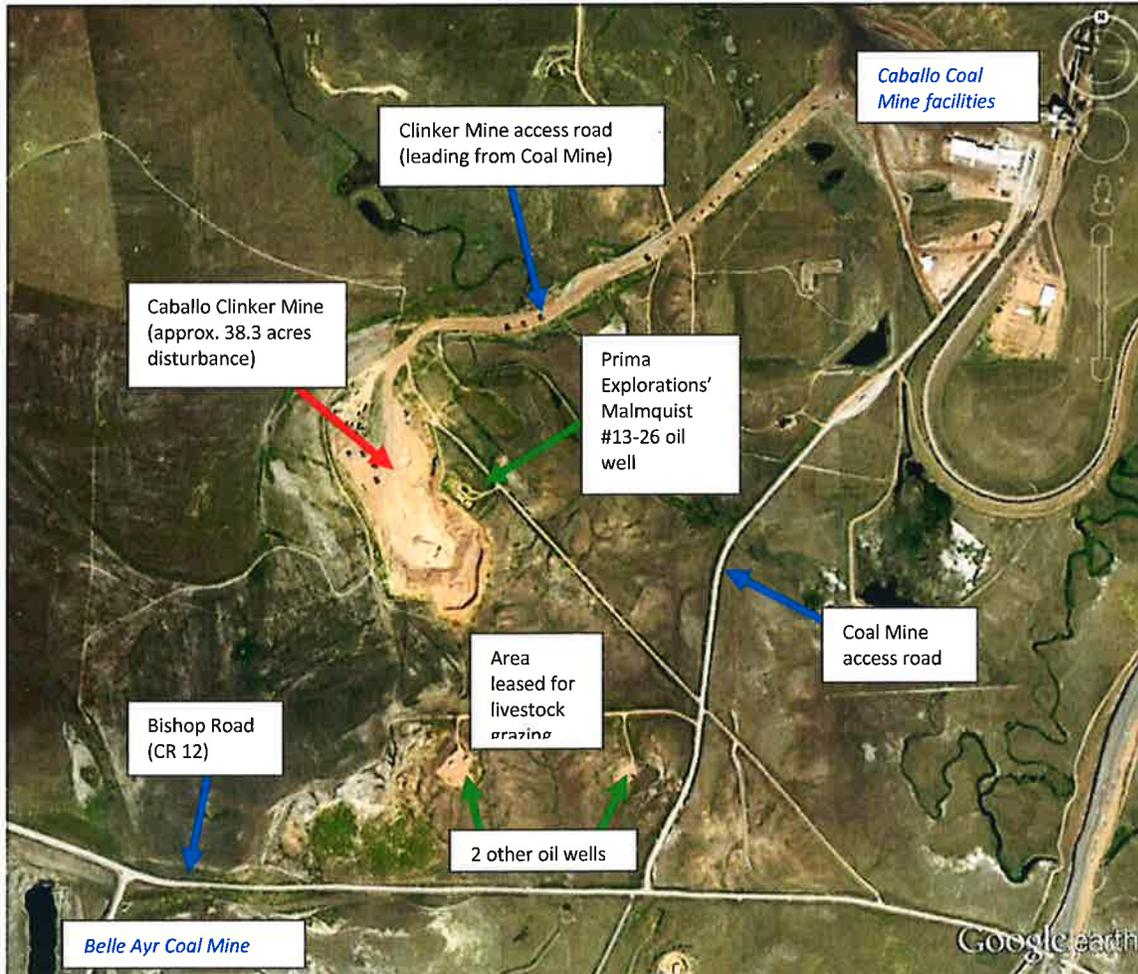


Figure 2. Larger aerial photograph of Peabody’s proposed Caballo Clinker (“Scoria”) Mine (WYW-168502). Photo shows entire Clinker Mine (see Figures 1 and 3a) and immediate surroundings, including portions of the Caballo Coal Mine (including essential facilities), Bishop Road (CR 12) and access to Coal Mine from that road, the 3 oil wells, area leased for grazing, and a portion of Alpha Coal’s Belle Ayr Coal Mine. Aerial GoogleEarth photo taken July 26, 2014; accessed and annotated by Kerry L. Aggen, May 2015.



Figures 3a through 3c. Panoramic photographs of Peabody’s proposed Caballo Clinker (“Scoria”) Mine (WYW-168502). Nearly the entire current area of disturbance is shown (totals approx. 38.3 acres).

Figure 3a. Upper photo - Panoramic photo showing nearly entire mine; taken looking approx. NNW from south disturbance boundary. **Lower photo** – zoomed in portion showing the powerlines erected in/near mine to provide electricity for processing clinker, by Kerry L. Aggen on February 13, 2015.



Figure 3b. Panoramic photos of western highwall, showing that this material is largely unusable (light-colored, not as hard), except toward southern end (left). Photos taken looking approx. S (left) through SW (right) from southeastern corner of disturbance, by Kerry L. Aggen on September 27, 2010.

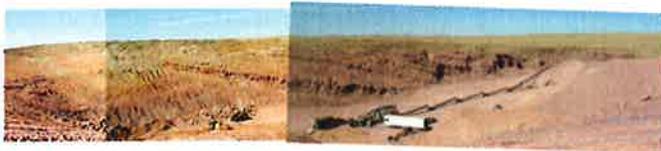


Figure 3c. Panoramic photos of eastern highwall, showing that much of this material may be usable (darker-colored, hard), especially toward southern end (right). Prima Exploration’s Malmquist #31-26 oil well can also be seen in background, as well as some Coal Mine facilities. Photos taken looking approx. W (left) through NW (right) from southeastern corner of mine, by Kerry L. Aggen on August 18, 2011.



Figures 4a through 4c. Photographs of Peabody’s proposed Caballo Clinker (“Scoria”) Mine (WYW-168502). Shown are portions of the western highwall which have signs of wildlife habitation. Photos taken by Kerry L. Aggen on September 27, 2010.

Figure 4a. Photographs of a portion of the western highwall which appears to show an animal burrow, possibly made by a fox. Left photo is normal size, and right photo is zoomed in on the burrow.

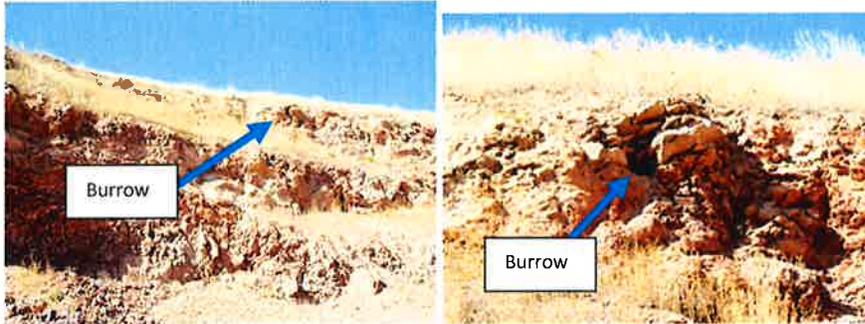
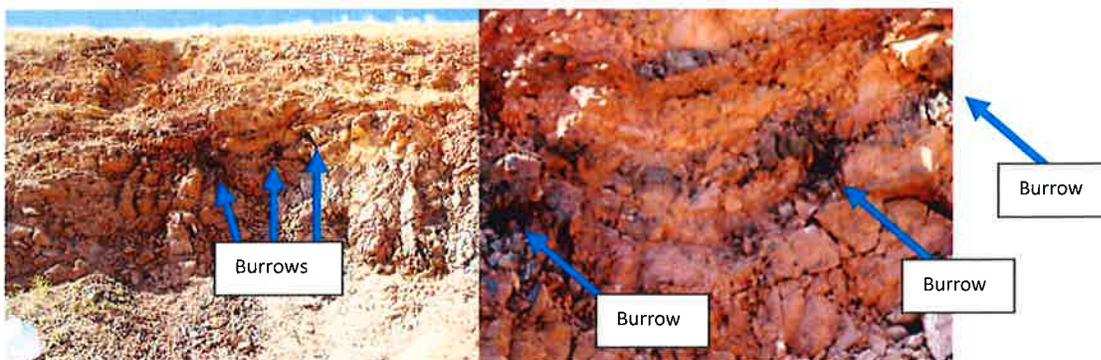


Figure 4b. Photographs of a portion of the western highwall which shows a Great-horned Owl nest (burrow). Left photo is normal size, and right photo is zoomed in on the burrow; note the signs of whitish guano indicating recent occupation.



Figure 4c. Photographs of another portion of the western highwall which shows more of the Great-horned Owl nest (burrows). Left photo is normal size, and right photo is zoomed in on the burrows; note the signs of whitish guano indicating recent occupation.



Figures. 5a and 5b. Photographs of Peabody’s proposed Caballo Clinker (“Scoria”) Mine (WYW-168502). Photographs of Prima Exploration’s Malmquist #31-26 oil well, which is situated just to east of the mine. Photos taken by Kerry L. Aggen on September 27, 2010.

Figure 5a. Photograph showing well sign, and some well-related facilities in background, taken looking approx. SSW from eastern edge of well-related disturbance.



Figure 5b. Photograph of well and related facilities, taken looking approx. WNW from southeastern corner of mine.



Appendix 1: RECLAMATION REQUIREMENTS, WYOMING BLM.

The following Reclamation Requirements apply to all surface disturbing activities, including BLM initiated activities, and must be addressed in each reclamation plan. These requirements also must be met prior to release of the bond and/or the reclamation liability. Where these Reclamation Requirements differ from other applicable federal, laws, rules, and regulations, those requirements supersede this policy. State and/or local statutes or regulations may also apply.

1. Manage all waste materials:

- a. Segregate, treat, and/or bio-remediate contaminated soil material.
- b. Bury only authorized waste materials on site. Buried material must be covered with a minimum of three feet of suitable material or meet other program standards.
- c. Ensure all waste materials moved off-site are transported to an authorized disposal facility.

2. Ensure subsurface integrity, and eliminate sources of ground and surface water contamination:

- a. Properly plug all drill holes and other subsurface openings (mine shafts, adits, etc.).
- b. Stabilize, properly back fill, cap, and/or restrict from entry all open shafts, underground workings, and other openings.
- c. Control sources of contamination and implement best management practices to protect surface and ground water quality.

3. Re-establish slope stability, surface stability, and desired topographic diversity:

- a. Reconstruct the landscape to the approximate original contour or consistent with the land use plan.
- b. Maximize geomorphic stability and topographic diversity of the reclaimed topography.
- c. Eliminate highwalls, cut slopes, and/or topographic depressions on site, unless otherwise approved.
- d. Minimize sheet and rill erosion on/or adjacent to the reclaimed area. There shall be no evidence of mass wasting, head cutting, large rills or gullies, down cutting in drainages, or overall slope instability on/or adjacent to the reclaimed area.

4. Reconstruct and stabilize water courses and drainage features:

- a. Reconstruct drainage basins and reclaim impoundments to maintain the drainage pattern, profile, and dimension to approximate the natural features found in nearby naturally functioning basins.
- b. Reconstruct and stabilize stream channels, drainages, and impoundments to exhibit similar hydrologic characteristics found in stable naturally functioning systems.

5. Maintain the biological, chemical, and physical integrity of the topsoil and subsoil (where appropriate):

- a. Identify, delineate, and segregate all salvaged topsoil and subsoil based on a site specific soil evaluation, including depth, chemical, and physical characteristics.
- b. Protect all stored soil material from erosion, degradation, and contamination.
- c. Incorporate stored soil material into the disturbed landscape.
- d. Seed soils to be stored beyond one growing season, with desired vegetation.
- e. Identify stockpiles with appropriate signage.

6. Prepare site for revegetation:

- a. Redistribute soil materials in a manner similar to the original vertical profile.
- b. Reduce compaction to an appropriate depth (generally below the root zone) prior to redistribution

- of topsoil, to accommodate desired plant species.
- c. Provide suitable surface and subsurface physical, chemical, and biological properties to support the long term establishment and viability of the desired plant community.
 - d. Protect seed and seedling establishment (e.g. erosion control matting, mulching, hydro-seeding, surface roughening, fencing, etc.)
- 7. Establish a desired self-perpetuating native plant community:**
- a. Establish species composition, diversity, structure, and total ground cover appropriate for the desired plant community.
 - b. Enhance critical resource values (e.g. wildlife, range, recreation, etc.), where appropriate, by augmenting plant community composition, diversity, and/or structure.
 - c. Select genetically appropriate and locally adapted native plant materials based on the site characteristics and ecological setting.
 - d. Select non-native plants only as an approved short term and non-persistent alternative to native plant materials. Ensure the non-natives will not hybridize, displace, or offer long-term competition to the endemic plants, and are designed to aid in the re-establishment of native plant communities.
- 8. Reestablish complementary visual composition:**
- a. Ensure the reclaimed landscape features blend into the adjacent area and conform to the land use plan decisions.
 - b. Ensure the reclaimed landscape does not result in a long term change to the scenic quality of the area.
- 9. Manage Invasive Plants:**
- a. Assess for invasive plants before initiating surface disturbing activities.
 - b. Develop an invasive plant management plan.
 - c. Control invasive plants utilizing an integrated pest management approach.
 - d. Monitor invasive plant treatments.
- 10. Develop and implement a reclamation monitoring and reporting strategy:**
- a. Conduct compliance and effectiveness monitoring in accordance with a BLM (or other surface management agency) approved monitoring protocol.
 - b. Evaluate monitoring data for compliance with the reclamation plan.
 - c. Document and report monitoring data and recommend revised reclamation strategies.
 - d. Implement revised reclamation strategies as needed.
 - e. Repeat the process of monitoring, evaluating, documenting/reporting, and implementing, until reclamation goals are achieved.