



Peabody Powder River Operations, LLC  
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January 16, 2012

Bureau of Land Management  
Attn: Rough Draw, WYW-168317  
1425 Fort Street  
Buffalo, WY 82834

Re: **Scoping Comments**  
**Rough Draw Unit Form 2920-1 Land Use Permit Application**

Dear Sirs:

Enclosed please find comments from Peabody Powder River Operations, LLC (Peabody) on the subject application from Patriot Energy Resources LLC (Patriot). Patriot seeks to use certain former coal-bed methane lands to conduct field experimentation for the biogenic generation of methane from coal. While Peabody has no lands that will be directly impacted by the immediate Project, we would suggest a number of legal, environmental, economic and multiple-mineral use questions be addressed during your review. Our collected comments are attached for your consideration.

Thanks for the opportunity to comment on this Application. Please contact me at 307.687.3963, or [cbelden@peabodyenergy.com](mailto:cbelden@peabodyenergy.com) if I may provide further information or explanation.

Sincerely,

A handwritten signature in blue ink that reads "Curtis M. Belden". The signature is fluid and cursive, with a long horizontal stroke at the end.

Curtis M. Belden  
Vice President  
Peabody Powder River Operations, LLC

C: file  
W. Burget  
C. Jennings

January 16, 2012

Bureau of Land Management  
Attn, Rough Draw, WYW-168317  
1425 Fort Street  
Buffalo, WY 82834

**Re: Rough Draw Project Scoping Comments from Peabody Energy**

To Whom It May Concern,

Peabody Energy (NYSE: BTU) is the world's largest private-sector coal company and a global leader in clean coal solutions. With 2010 sales of 246 million tons and nearly \$7 billion in revenues, Peabody fuels 10 percent of U.S. power and 2 percent of worldwide electricity. Peabody's Powder River Basin (PRB) operations provide more than 140 million tons of coal each year for customers in the United States and around the world. The company controls more than 3 billion tons of proven and probable coal reserves and is recognized for industry-leading safety, operating and environmental practices.

Peabody Energy (Peabody) appreciates the opportunity to review the Rough Draw Project Scoping Document and provide the following comments, concerns and information. Peabody concurs with the comments filed by the Wyoming Mining Association on behalf of its membership and incorporates them herein by reference. For ease of review, Peabody's comments are categorized under the following topics: General; Technical Deficiency and/or Additional Study Design Requirements; Legal and Procedural Concerns; Economic Issues; Mine Operations and Associated Environmental Impact.

**General**

- The proposed Project area does not include any currently planned Peabody mining areas. The stated objectives of the project like repurposing existing coal bed methane infrastructure and continuing to extract value from coal ahead-of-mining are valid, particularly so if executed in an area well out of range of and impact to foreseeable coal mining or other prospective coal development processes. The experiment outlined in the Scoping document is intended to answer questions and identify impacts of biogenic conversion of coal to gas. Nevertheless, there are a number of issues and questions relevant to longer term effects on coal and these should be considered and adequately addressed well ahead of implementing the field testing plan.

**Technical Deficiency and/or Additional Study Design Requirements**

As detailed in many of the comments below, the Scoping documents ignore physical and qualitative effects of the process to the coal reserve that may affect future mining or other coal development processes. However, a reasonable review must consider both the coal actually consumed in the gas

generation process, as well as any residual effects to the coal seam relevant to future mining or other coal development efforts.

In **Section 2.1 of the Plan of Development (POD)**, Patriot claims that “monitoring and site study information will reveal whether and to what extent coal quality and quantity are affected by the process”. While this would seem intuitive and a reasonable approach, the methodologies, data collected, and analyses should be examined very closely to be sure that the results are truly representative of the impacts to the entire coal seam thickness. It is not entirely clear in the Patriot documentation as to why a laboratory bench test could not be used to model the impacts to coal quality and quantity. The excuse that “alteration by oxidation and desiccation” of the samples does not seem to be adequate since coal samples can be collected and preserved to avoid these impacts. It is understood that other technologies have been successfully tested in the laboratory and yielded higher coal losses and quality degradation than projected by Patriot’s stoichiometric calculations (from Exhibit 6).

- Luca’s proposed coring program is not appropriate for the results they are attempting to measure. Luca only plans to drill 2 core hole locations and then repeat the drilling after 12, 24 and 35 months. This will allow Luca to assess the changes in the coals thermal value over time, but the lab results of only 2 locations in very close proximity, even if drilled several times in succession, cannot possibly be extrapolated over the entirety of the proposed plan’s affected area. Additionally, their lab results would not address quality issues other than thermal value.
  - Luca proposes 30 equally sized samples be collected from each coal seam, which is apparently an attempt to show the coal seams’ vertical variability and establish an acceptable standard deviation from the results. However, the more appropriate field study methodology would be to decrease the number of samples collected from each seam and increase the number of total core locations. It is already well documented that PRB coals are highly variable in quality between different vertical horizons within a single seam. Instead, as mentioned earlier, what must be determined is the effect of the biogenesis process on the coal quality for the whole seam, which is the basis on which it would be mined, and how that effect changes over a widely spaced location of core holes over time.
- Luca focuses most of their efforts on supporting their claim that their “methane farming” process would not significantly impact the thermal value of the coal and therefore not significantly impact the physical value of the coal and the royalties associated with it. But, the real-market value of PRB coals does not solely depend on the thermal value of coal in a given area. Many other chemical and physical aspects of the coal seam affect its total value and marketability. There is no mention in the Patriot analysis of the resulting impact of the expected degradation on other coal constituents which negatively impact the marketability of the coal. The following comments discuss this concern in further detail:

- The Plan of Development lists various components to be injected to stimulate biogenesis of gas. The proposed study should include an analysis, based on the planned chemical concentrations in the nutrient solution, to determine any negative effects on downstream water quality or coal marketability.
- Several of the components in Luca's "nutrient solution", if present in sufficient volume and concentration, could significantly affect the burn-ability of coal in many of our customer's boiler systems. These boiler requirements are significant enough to our utility and manufacturing customers that they stipulate specific quantities of these constituents in coal sales contracts. Sodium, for example, must fall within a given range of concentration for each coal delivery to the customer. It is noted that the "nutrient solution" contains sodium as one of its primary ingredients.

Additionally, any reduction of the heat value of the coal has the effect of increasing the concentration of sulfur dioxide and sodium oxide which are evaluated by coal customers on a pounds-per-million Btu basis. Coal becomes non-compliant for regulatory purposes at 1.2 lbs/million Btu's of sulfur dioxide. As for sodium oxide, high values on a pounds-per-million Btu's basis indicates higher slagging and fouling potential which is avoided by utility customers. This impact must be adequately evaluated.

- Will this process change the coal rank? This would have significant tax implications for coal producers.
- Moisture, ash, volatile, and sulfur parameters should be added to the analyses in order to enable doing cross-checks on the results. A scheme of splitting a pre-determined percentage of samples for duplicate analyses beginning from the first step of the process is absolutely essential. This procedure will define the uncertainty surrounding the sample prep and lab analysis work. This is required in order to define the effects of the methane production process on the coal.
- A minimum of ten percent of all drill hole baseline and post process coal samples should receive Equilibrium moisture, ultimate, ash mineral, CI, HGI and trace metal tests.
- Using a third party laboratory is appropriate and critical to the success of the evaluation. However, this practice, in and of itself, is insufficient for the purpose of assuring unbiased results. **Therefore, Peabody Energy specifically requests that the entire plan and process should be reviewed, overseen and monitored and by a qualified independent third party**
- The Project proposes to use existing coalbed methane (CBM) infrastructure to hasten project startup and lower overall costs. Even with these highly permeable coals it will be difficult to achieve horizontal and vertical chemical dispersal to the formation using gravity-feed for the nutrients and the existing 40- or 80-acre well spacing. Further, even

if this level of nutrient transport is possible, it's unclear that gas yield will reach sufficient volume or pressure for recovery. In many areas of the PRB CBM fields have been operated under vacuum for years, often requiring equipment on each well to apply powerful vacuum to pull gas to surface. If necessary the concurrent use of vacuum and pumping to move water and/or gas may enhance the biogenic process but will also add to expense and complicate the gas recovery and sales operation.

- To consider this discussion further, the project description makes it clear that the intent is to allow the "nutrient solution" to feed down the CBM well by gravity alone, which is to say, without the assistance of pressures usually associated with hydraulic fracturing. However, there is no indication that the project proponent intends to adequately determine and define the hydrologic nature of the subterranean coal environment. It is unclear how the nutrient solution will interact with the surrounding strata and the extent of exposure the coal will experience spatially. Luca inadvertently confirms this with a statement in Exhibit 4 in which they assert that the thickness of a source coal seam seems to have no effect on the amount of methane produced after their solution is introduced.

Additionally, the Project proposes to apply nutrients for methane generation across a wide geographic area. If the nutrient application is successful, what means are in place to halt the process, if necessary?

- The Scoping document contains no laboratory studies of the effects of the nutrient treatment on sub-bituminous coals. Rather, pg. 12 of the Plan Of Development cites "difficulty measuring any degradation changes with laboratory methods". This is puzzling since these methods are the same in use today to determine quality for coal sales. It is unclear why an experiment using equivalent splits of coal will not serve to identify possible effects, with- and without treatment. The additional variables that will come into play by moving forward with a full-field test can only complicate, rather than simplify, determination of impacts to the coal.
- The proposal makes no mention of any Ash Analysis tests as part of this study to assess the impact of biogenesis on coal quality. These tests are essential to adequately determine the impact of the injected nutrient solution on the quality and quantity of the coal. Only thermal value tests are suggested by Luca in Exhibit 7. This approach only partially addresses coal quality concerns and is, therefore, unacceptable.
- The scoping documents indicate that this study plan will attempt to prove that the proposed process of "methane farming" will reduce the coal's thermal value by some amount less than 4%, and further contends that this represents an "acceptable" loss. No source is provided to back up this statement. Regardless, it is completely inaccurate and could not possibly be true.

A 4% loss in thermal value would make the majority of coal in the PRB unmarketable, and seriously diminish the value of any coal that might still be saleable.

- In fact, the Scoping documents variously cite possible impacts to either coal quantity and/or quality of: 1) 0.05-0.5% (Table 1 of Ex. 4); 2) less than 0.1% (Ex. 6, Metric #3 description); 3) 1% (Ex. 4, Summary and Conclusions); 4) 4% (pg. 12 of POD); or 5) 15% (pg. 5 of Ex. 4). These varying estimates of possible impacts to coal further complicate efforts to adequately review and determine the scientific basis and viability of the proposed study plan. BLM and/or the applicant need to narrow and clarify this range of possible effects.
- In **Section 2.1 Study Program...**, Patriot contends that the “natural process” does not destroy the coal since the seams with the most historical CBM production are the seams with the “highest BTU values”. This is further expounded upon in Exhibit 6 where the statement is made that “either the microbes don’t want to live in lower-quality coals, or else the biogenic process consumes lower-quality parts of the coals, and actually serve to high-grade the coals in situ”. These contentions are purportedly supported by the calorific values listed in Table 2-1. Care should be exercised in accepting these contentions since it is more likely that there are other explanations for the observed values. Since coal is definitely consumed in the biogenic process, it is highly unlikely that the harvesting of methane gas would upgrade the remaining coal seam. It is more likely that the lower BTU “non-CBM coals” identified in the USGS OFR were seams that were closer to the surface or burn line that were “dry” (little to no CBM gas was present) and were oxidized resulting in the lower BTU values. In addition, if there had been no Paleolithic biogenic process at work creating the natural methane gas, it is very likely that the calorific value of the coal seams would be much higher today than we see in the present coal production.

### Legal and Procedural Concerns

- As the Plan of Development (POD) points out, there are serious questions surrounding whether the CBM produced from this “nutrient injection” belongs to the coal resource or the gas resource. Peabody believes it belongs to the coal resource for the reasons stated below. Since this question is of profound importance, BLM should request a formal legal opinion from its solicitor general. Has the BLM requested or received such an opinion? If not, why?
  - In **Section 1.1 Introduction**, Patriot indicates that it is applying to the BLM for a land use permit as opposed to a gas lease or coal lease since the proposal is basically for a field trial to “determine the effect of the process on these publicly owned coal seams”. Elsewhere in the documentation, it is stated that it has yet to be determined whether this biogenic enhancement should be considered affecting the CBM gas estate or coal estate, which are severed. Since the process to be evaluated does consume the primary constituent in the coal seam (carbon) it seems reasonable that it should be handled under the coal estate and that a coal lease should be required. The size of this project (covering 17,800+ acres, 96% of which is publicly owned) also argues against a simple land use permit/license.

- At several points in the POD, the assertion is made that unless this project proceeds forward, both Patriot and the BLM could face potential liability. On what basis is this assertion founded? It is unclear how the BLM could face any legal liability for not allowing this project to proceed.
- Has the BLM asked Patriot to provide copies of any leases or other agreements that Patriot has entered into with private oil and gas interest owners in the area? A review of said agreements might be able to explain the concern over liability.
- Has the BLM reviewed any purchase and sale agreements between Patriot and the previous owners of the CBM wells and other infrastructure? There is a concern that the previous owners may have paid Patriot to take over the wells in an attempt to avoid their plugging and abandonment liabilities.
- Will the BLM require Patriot to post bonds to cover the full cost of plugging and abandoning all of the wells included in this project? What happens if the project fails and Patriot files for bankruptcy? Does this leave the plugging liability with the WOGCC orphan well fund?
- What financial assurances is the BLM considering to cover the cost of remediation/restoration, reclamation of surface or subsurface resources that become negatively impacted by this project?
- The principle source of information frequently referenced in Exhibit 4 and employed to give credibility to the claims made in this document was drafted by Luca Technologies VP, Mr. Roland DeBruyn, which is likely to be a potential conflict of interest.

#### Economic Issues

- The financial details of Luca's operating plan are understandably absent from public review. However the scoping document does cite a gas sales price of \$2/mcf in association with royalty calculations. Operating details for the Project are limited so cost estimates are difficult to project. That said, Peabody's costs to operate a CBM project in the PRB involving water pumping and vacuum application were over \$2/mcf in power and gas transportation expenses alone. It's hard to reconcile this experience with the plans outlined in the Scoping document.
- A calculation was done in Exhibit 4 which supposedly illustrates the benefit to the Federal royalty income stream from the production of methane from the project as compared to the degraded coal royalty. Did that evaluation consider the value of the bonus bids paid to lease Federal coal and the resulting reduction in that value as a result of any anticipated degradation of the coal resource? These bonus bids have recently approached the value of the 12.5% royalty and are of significance in this evaluation.
- Exhibit 4 of the Scoping document also states "Royalty on methane produced by farming would be approximately three times as much as the lost coal royalty due to coal degradation." The document further states "...royalty on produced methane will almost always be greater than the royalty value of the coal." Peabody does not concur with these statements, based on operating experience with coal and coal bed methane. (see next comment)
- The BLM issued a guidance document in 1984-5 (BLM IM WY-85-14 and WY-85-77) to address royalty on underground coal gasification. The IM's use the following principle assumptions:
  - It is the coal that is being leased...
  - Separate market for low Btu gas does not exist

- Using a coal Btu value will avoid a situation whereby an effective higher royalty would be levied on an in-situ processing operation than on a surface operation
  - Rental will be \$3/acre.
- From the first sub-bullet above, BLM guidance relies on the fact that coal value should be the basis of value for gas developed from coal (and also that coal should be leased to produce gas). This logic seems sound whether the gas is derived by thermal or biogenic means. However, underground gasification of coal involves the destruction of an indeterminate amount of coal to produce gas, so the guidance document couples coal value with gas volume produced to create a basis for taxing the gas.
  - As noted in the third sub-bullet above, the method combines a valuation of coal energy (expressed as cents/MMBtu) with a measure of gas energy produced (MMBtu), then applies a royalty rate of 12.5% to determine royalty owed on gas produced. This method provides a simple and intuitive means to calculate royalty, but has several shortfalls: 1) It provides no adjustment for efficiency of the coal-to-gas conversion 2) It does not address the quantity of coal actually destroyed or altered in the process 3) It serves as incentive for such projects but appears to undervalue the resultant gas royalty. To illustrate, consider the following example of royalty calculations for the same quantity of gas produced, first by regular CBM methods, then by in-situ technique:

Coal quality of 8,500 btu/lb (17 MMbtu/ton)

Coal price of \$10 per ton (\$0.58/MMbtu)

Gas price of \$3/MMbtu

Gas flow of 2000 mcf/day (2MMcf/day)

Gas quality of 950 btu/scf (0.95 MM btu/mcf)

Royalty Rate of 12.5%

**Royalty on regular coal bed methane production =**

$(2000\text{mcf/day}) \times (0.95 \text{ MM btu/mcf}) \times (\$3/\text{MMbtu}) \times (0.125) = \$712.50$  (no adj. for treatment)

**Royalty on gas produced from coal in-situ process (per BLM IM WY-85-77) =**

$(\$0.58/\text{MMbtu}) \times (2\text{MMcfpd}) \times (950 \text{ btu/scf}) \times (0.125) = \$137.75$

1. The Scoping document contains several different estimates of possible coal loss. Since it is unclear how much coal the Process may consume and/or alter, following are calculations of lost coal royalty, depending on varying scenarios of coal loss put forth in the Scoping document:
  - a. Coal thickness of 60'
  - b. Coal in place of 1742 tons/acre-foot (80#/cubic foot, or 1.28 sg)
  - c. Mining recovery of 93%

**Mineable coal found within one 80-acre well spacing =**

$(80 \text{ ac.}) \times (60 \text{ ft thk}) \times (1742 \text{ tpaft}) \times (0.93) = 7,776,228 \text{ tons}$

**For coal at \$10/ton, possible foregone coal royalties related to each well are,**

$(7,776,228 \text{ tons}) \times (\$10/\text{ton}) \times (0.125) \times (0.0005) = \$ 4,860$  (0.05% coal consumed)

$(7,776,228 \text{ tons}) \times (\$10/\text{ton}) \times (0.125) \times (0.001) = \$ 9,720$  (0.1% coal consumed)

$(7,776,228 \text{ tons}) \times (\$10/\text{ton}) \times (0.125) \times (0.01) = \$ 97,202$  (1% coal consumed)

$(7,776,228 \text{ tons}) \times (\$10/\text{ton}) \times (0.125) \times (0.04) = \$ 388,811$  (4% coal consumed)

$(7,776,228 \text{ tons}) \times (\$10/\text{ton}) \times (0.125) \times (0.15) = \$1,458,043$  (15% coal consumed)

Ex. 4 states for \$2/MMbtu gas annual estimated gas royalty is \$2292 per 80-acre well. With complete success of the process and a 50 year life, each restored well can generate an additional \$114,600. If estimates of coal lost exceed 1% then the process yields a net loss.

- Since access to water, and water production and usage, is a key factor in the economic operation of the project, the availability needs to be more thoroughly evaluated. The statistics listed in **Table 3-2 on page 21 of the POD** seem to indicate that the project will require 19.71 million barrels of water per year to operate effectively. Since the coal seams from which water has been historically produced have primarily been dewatered (including overlying burden water) and may or may not have recovered to any significant degree is there an adequate resource to be produced for the project? The conventional CBM water production wells in the Rough Draw Field only produced in excess of 19.71 million barrels in one year at peak production. All other years were at much lower levels. Will the project have to develop other sources of water and how will this affect the economics?

#### **Mine Operation and Associated Environmental Impacts**

- On **page 12 of the POD**, the statement is made that “Luca.....has agreed to plug and abandon infrastructure if a conflict with an active surface mine occurs”. In **Section 5.1 Mitigation...**, “Patriot will agree to plug and abandon all wells and associated infrastructure at least 60 days prior to the intersection of an active surface mine”. Since active surface mining processes often require topsoil removal well in advance of the actual coal removal from an open pit, it is likely that this “intersection” could occur 1 to 2 years prior to coal removal. It should be made clear to Patriot and Patriot should agree that the definition of “intersection” is the point at which topsoil is to be removed at the well/infrastructure site.
  - It should also be noted that the proximity of the active open mine pit can have the impact of reducing CBM gas quality to a non-marketable state years in advance of the topsoil removal stage, especially if the gas recovery is done under vacuum. This is the result of atmospheric oxygen/nitrogen entering the coal seam through the exposed mine pit coal face. There should be no liability to the coal mine operator associated with this contamination.
  - Also, mineral exploration licenses are often issued to coal operators for tracts that are 10 or more years in the future and many miles ahead of the active pit. The exploration drill holes intersecting the coal seam have been blamed for breaking the well vacuum and allowing oxygen/nitrogen contamination to intrude upon the CBM harvest (even though these exploration holes are only open for a short period of time and are plugged and abandoned properly). These exploration activities should also not be held to create a liability for the coal operator.
- While the statement was made that the biogenic enhancement will not negatively change the structure of the coal seam, coal operators have already experienced a breakdown of the coal seam from conventional CBM production that resulted in structural degradation which caused difficulty drilling coal blast holes and keeping those holes open during the loading of explosives. It is a concern that further harvesting of methane by this new process might have more significant impacts.

- The BLM's Analysis of the Rough Draw Project application should consider and investigate the following with respect to potential interferences between the project and existing coal mining operations.
  - The Rough Draw Project will interfere with coal mining long before one operation is visible to the other on the land surface. The impacts will be felt as interferences to groundwater levels and qualities. These interferences will be experienced by Patriot Energy Resources (PER) and one or more coal mine operators as well as any private individuals whose water sources are completed in the coal in the general vicinity of these operations.

The impacts to groundwater levels from surface coal mines often extend many miles from the actual mine site. The drawdown of water in aquifers is an impact that is addressed in surface coal mine applications through studies of aquifer characteristics and computer models that simulate the amount and extent of drawdown at various stages in the life of the mine. The Wyoming Department of Environmental Quality Land Quality Division (LQD) further looks at the cumulative impacts from the applicant mine and all surrounding mines on groundwater levels in the region. All existing coal mines in Wyoming have approved permits that contain the results of these studies. Once in operation, coal operators are required to monitor and report actual impacts to aquifer water levels, and by agreement with the LQD, these impacts are reported annually on a cumulative basis.

Similarly, the impacts to coal aquifer water quality that occur long distances away from active mines will eventually be detected at the coal mine site. Because of the cone of depression created by coal aquifer drawdowns, the flow of groundwater in the coal is directed to the mines. Coal aquifer monitoring wells are located at all mines, and reports of water quality are generated annually. In addition, water is continually removed from surface mine pits to create drier operating conditions. Often this water is discharged into surface streams under authority of discharge permits issued by the Wyoming Department of Environmental Quality Water Quality Division (WQD).

The point of this narrative is to establish that coal mines do lower the water level in the aquifers, including the coal aquifer, at locations a significant distance from the mine sites. These aquifer drawdowns are anticipated, permitted and expected to exist throughout and after the active mining process. By locating projects such as the Rough Draw Project within the cone of depression of these coal mine aquifer drawdowns, several environmental and resource impact issues arise.

- Who will be responsible for impacts to private water wells in areas subject to drawdown by both coal mines and the Rough Draw Project? How will this responsibility be determined and how will mitigation be appropriately distributed to the responsible parties?
- How will the permitted coal mine aquifer drawdown impact the Rough Draw project? The closer the project is to an operating mine, the greater will be the

aquifer drawdown from the mine. With greater aquifer drawdown there will be less hydrostatic pressure to confine or restrict the flow of gas.

- By definition, a cone of depression in an aquifer redefines the direction of flow for liquids and gases within the formation. How will this affect the ability of Patriot to control their injections?
- Who will be responsible if water quality declines in a private well because of coal mine influences on the direction of groundwater flow from the Rough Draw project?
- Will this cone of depression become a conduit for the flow of methane gas from the Rough Draw project site toward the mine site?

These and several related questions should be answered before authorizing the Rough Draw project or similar projects in the vicinity of existing and future coal mine operations.

**In Summary:**

- **Peabody requests that these types of projects should only be considered outside the Area of Coal Development Potential as defined and designated in the BLM Buffalo (2001) and Casper (2007) Resource Management Plans.**
  - In addition, even if a coal biogenesis project is located far from potential mining areas even in deep or thin coals, it is important that BLM seriously address many of the concerns raised by these comments.
  - BLM must also consider that biogenesis projects could conflict with underground coal gasification projects on leased "deep seam" state-owned coal.
- **Peabody specifically requests that the entire Rough Draw Project plan and process should be reviewed, overseen, monitored by a qualified independent third party**
- **As stated above - BLM must also recognize and thoroughly evaluate the impact this project and process may have on leased state and private coal reserves as well as other types of coal development processes, including underground coal gasification.**
- **Peabody joins the Wyoming Mining Association in its request that BLM address all of our joint concerns and provide additional avenues for public review and comment prior to any approval for the proposed actions.**

Sincerely,



Curtis M. Belden

Vice President

Peabody Powder River Operations, LLC

cc:

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