

3420(LBA)  
WYW128322  
Antelope

**U.S. DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT  
DECISION RECORD  
ANTELOPE FEDERAL COAL LEASE APPLICATION  
WYW128322  
CONVERSE COUNTY, WYOMING**

**DECISION**

The Bureau of Land Management (BLM) decision is to issue, with Forest Service (FS) consent, a lease for Federal coal tract WYW128322 to the successful qualified high bidder if it is determined that the highest bid received at a competitive lease sale meets or exceeds the fair market value of the tract as determined by the BLM and if all other leasing requirements are met. The competitive lease sale will be held under the regulations at 43 Code of Federal Regulations (CFR) 3425, Leasing on Application. Under the selected alternative (Alternative 1), federal coal tract WYW128322 includes approximately 617 acres and contains approximately 60 million tons of minable coal resources in Converse County, Wyoming, based on preliminary estimates. This decision is consistent with the BLM Buffalo Resource Area Resource Management Plan, and the Medicine Bow National Forest and Thunder Basin National Grassland Land and Resource Management Plan. This decision incorporates by reference the standard coal lease stipulations addressing compliance with basic requirements of the environmental statutes and the attached special stipulations.

**PUBLIC INVOLVEMENT**

Coal lease application WYW128322 was reviewed by the Powder River Regional Coal Team at their public meeting in Billings, Montana on June 16, 1993. At that meeting, the coal team recommended that the BLM continue processing the application. In February, 1994, more than 200 notices of a scheduled scoping meeting were mailed to federal and state agencies, local governments, conservation groups, commodity groups, and individuals who could be impacted by this lease application. The mailing list was jointly developed by BLM, FS, and the Antelope Coal Company. A scoping meeting was held at the Holiday Inn in Douglas, Wyoming on February 17, 1994. A second scoping letter was mailed in April, 1994, requesting comments on three potential tract configurations.

The draft environmental assessment (EA) was mailed to the public in late March, 1995. A Notice of Availability of the draft EA and notice of Public Hearing appeared in the Federal Register on Thursday, April 6, 1995. A formal public hearing was held on April 26, 1995, at the Holiday Inn in Douglas, Wyoming to solicit public comment on the EA, the proposed sale, and the Fair Market Value and Maximum Economic Recovery of the proposed tract. The comment period on the draft EA ended on May 30, 1995. The final EA was mailed to the public in late November, 1995. Comments were accepted on the final EA through January 15, 1996.

Eleven written comments and one oral comment were received during the scoping period on

the Antelope lease application. Two oral comments were received at the hearing that was held on April 26, 1995, after the draft EA was issued. Seven written comments were received on the draft EA. No comment letters were received on the final EA. All comments that were received were considered in the preparation of the draft and final EAs, and in this decision record. Copies of the comments received during scoping and copies of the hearing transcript are on file in the Casper and Cheyenne offices of the BLM. Copies of the comments received on the draft EA and responses to those comments are included in the final EA.

## **ALTERNATIVES TO THE SELECTED ALTERNATIVE THAT WERE ANALYZED IN DETAIL**

### **Alternative 2: Competitive Sale of the Tract as Expanded by BLM to be Mined with the Existing Mining Operation**

BLM considered adding approximately 200 acres containing about 25 million additional tons of coal to the tract. This alternative was considered because this coal could logically be mined with the proposed tract, although it will not be mined until near the end of the mine life under the currently approved mining permit. It was not selected because the coal can be added to the mine in the future, when it will potentially have more value. The environmental impacts of this alternative would be similar to, but slightly greater than, the impacts of the preferred alternative because a larger area would be disturbed.

### **Alternative 3: Competitive Sale of Tract as Reduced by BLM to be Mined with Existing Mining Operation**

BLM also considered reducing the size of the tract by about 160 acres, in order to preserve some unleased, relatively low overburden coal that could be combined with unleased federal coal to the north and west for future leasing and development. This alternative was not selected because it could lead to potential bypass of the coal excluded in this alternative, and result in less efficient coal recovery and reclamation. Also, at this point, there is no indication that the higher-cover coal to the north will be economically recoverable in the foreseeable future. The impacts of this alternative would be similar to, or slightly less than, the impacts of the preferred alternative because a smaller area would be disturbed.

### **Alternative 4: No Action Alternative**

Under this alternative, the tract would not be offered for sale. Part of this tract could be permanently bypassed if not mined with the adjoining leased coal. In the event that the coal is not mined, disturbance of most of the tract and associated impacts would be avoided, and the economic benefits from the sale of the coal would not be realized.

## **ALTERNATIVES CONSIDERED BUT NOT ANALYZED IN DETAIL**

### **Alternative 5: Proposed Lease Sale for a New Stand-Alone Mine**

This alternative was considered because the tract could be acquired by someone interested in opening a new mine, instead of the applicant. The lease-by-application process is, by law

and regulation, an open, public, competitive leasing process, so the applicant might not be the only bidder if a lease sale is held. This alternative was not analyzed in detail because the size and location of the tract and the current economics of mining in the Powder River Coal Region do not make this tract a good candidate for a new mine start. The environmental impacts of mining the tract under this alternative would be greater than for alternatives 1, 2, 3, or 4 because of the need for new facilities, a new rail line, new employment, and the creation of additional sources of dust and blasting.

#### **Alternative 6: Postpone Lease Sale**

This alternative considered postponing the lease sale until coal prices rise in order to potentially increase the Fair Market Value of the tract. It was not considered in detail because of the uncertainty of rising coal prices, the uncertainty of their effect on the Fair Market Value, the potential for bypassing some of the coal if it is not mined by the Antelope Mine, and Antelope Coal Company's plans to mine the coal in this area beginning in the year 2000. If coal prices do increase, royalty income to the federal and state governments will also increase, because royalty is a percentage of the money received for the coal when it is sold. The impacts of this alternative could be similar to Alternative 1, 2, 3 or 4, depending on how long the sale was postponed and which tract configuration was selected at the time of the sale.

#### **FINDING OF NO SIGNIFICANT IMPACT**

Based on the analysis of the selected alternative (Alternative 1) in the Final Environmental Assessment for the Antelope Coal Lease Application, issuing this tract as a maintenance lease to Antelope Coal Company, the applicant, will not significantly change the expected impacts of mining the existing leases at the Antelope Mine and an environmental impact statement (EIS) is not needed. If the applicant is not the successful qualified high bidder, the record upon which this decision is based will be evaluated to determine if that record will still support a finding of no significant impact.

#### **REASONS FOR THE DECISION**

Three regional EIS's analyzing the impacts of surface coal mining in the Wyoming portion of the Powder River Basin have been prepared (1974, 1979, and 1981). A fourth regional EIS was prepared and issued in draft form in 1984, but it was not finalized and the actions proposed were never taken. The Antelope Mine is included in the impact analyses in three of the four EIS's. All of the mines that are currently operating in the Wyoming Powder River Basin, the proposed Rocky Butte Mine, and a mine proposed for the now-terminated Keeline lease are included in the analyses in the 1981 and 1984 documents. The recent and currently proposed Federal coal leasing activity in the Wyoming Powder River Basin [the issuance of four maintenance coal leases since 1991 (Jacobs Ranch, West Black Thunder, North Antelope/Rochelle, and Eagle Butte), the proposed opening of the Rocky Butte Mine following issuance of the West Rocky Butte lease, and the potential issuance of the pending Lease-by-Application tracts (Antelope, North Rochelle, Thundercloud, and the second North Antelope/Rochelle tracts) as maintenance leases] will extend the duration of mining in the

Powder River Basin, but will not increase mining levels and disturbance in the region beyond the levels analyzed in the regional EIS's.

The decision to offer 617.2 acres containing approximately 60 million tons of minable coal resources is in conformance with the BLM and FS land use plans covering this area (the Buffalo Resource Area Resource Management Plan and the Medicine Bow National Forest and Thunder Basin National Grassland Land and Resource Management Plan, respectively). Both were approved in 1985.

The selected alternative, Alternative 1 of the EA, proposes holding a competitive lease sale for the coal tract. This action includes the assumption that Antelope Coal Company, the applicant, will be the successful bidder if a competitive coal lease sale is held. Issuance of the lease to the applicant as a maintenance lease will extend the period of maximum coal production at the Antelope Mine but will not extend the mine life. It will not result in a significant increase in environmental impacts beyond what will occur as a result of the currently approved mining activity at the Antelope Mine and adjacent mines. It will extend the period of maximum positive contribution by the Antelope Mine to the economy of the region. Issuance of the lease will add to Federal and State royalty and tax revenues in a time of falling revenue from other sources. With the Antelope tract, and assuming an available market, the mine could produce coal at the currently permitted level of 12 million tons per year through 2015. Production will decline in the year 2016, the last year of production. Without this additional coal, coal production from the Antelope Mine will drop below 12 million tons after 2005, and will cease in 2016, according to the current mine plan.

#### **MITIGATION, COMPLIANCE AND MONITORING**

BLM and FS recommend that additional searches be conducted for the Threatened Species plant Ute Lady's Tresses (*Spiranthes Diluvialis*). It would be advisable to conduct additional searches prior to approval of the mining and reclamation plan revision, since discovery of the plant on the tract could affect the mining plan. A search conducted for this plant in August of 1995 found no occurrence of this species on or near potential habitat in the lease application area. The recommendation for additional searches is made upon consideration of the following information:

1. Ute Lady's Tresses occurs in two known locations in Wyoming. One location is in southern Goshen County, first discovered in August, 1993, and confirmed again in 1994 and in 1995. The second location is in Converse County, first discovered in August 1994, and confirmed again in 1995.
2. The Converse County population of Ute Lady's Tresses is located on a principal tributary to Antelope Creek, approximately 25 miles upstream of the proposed Antelope coal tract.
3. Telephone discussions between Willie Fitzgerald, Wildlife Biologist, BLM Platte River Resource Area and three botanists who have participated in searches for Ute Lady's Tresses (listed below) indicate that the plant does not produce flowering stalks in every year, or may produce vegetative portions of the plant which would not likely be seen

during a search. The environmental conditions which affect the production of the plant are weather, stream dynamics, and grazing impacts. Thus, a search for the plant may yield negative results even though the plant is present. The three botanists recommended that several (three or more) searches be conducted over a period of years (three to six). The botanists are:

- a. B. Ernie Nelson, Manager, Rocky Mountain Herbarium, University of Wyoming, Laramie, Wyoming. Mr. Nelson found the two known Wyoming populations. He was consulted by phone on January 19, 1996.
- b. Walter Fertig, Botanist, Wyoming Natural Diversity Data Base, The Nature Conservancy, Laramie, Wyoming. Mr. Fertig conducted the 1995 at the Antelope Mine. He was consulted by phone on January 19, 1996.
- c. Jeff Carroll, Botanist, BLM Wyoming State Office, Cheyenne, Wyoming. Mr. Carroll was consulted by phone on or about January 19, 1996.

The standard coal lease stipulations addressing compliance with basic requirements of the environmental statutes will be attached to the federal coal lease if it is sold. Consistent with the environmental assessment, the attached special stipulations regarding cultural resources, paleontological resources, multiple mineral development, oil and gas/coal resources, resource recovery and protection, public land survey protection, and coal resources within the Burlington Northern/Chicago Northwestern Gillette-Orin Mainline Right-of-Way will also be attached to the coal lease if it is sold. The existing mitigation measures specific to the current mine plan will be amended to include mitigation measures specific to mining WYW128322 when the current mining permit is revised.

Compliance with the applicable regulations and monitoring of impacts will be carried out as outlined in the mining and reclamation plan revision which must be reviewed by the BLM and the FS and approved by the Wyoming Department Environmental Quality and by the Office of Surface Mining prior to the commencement of mining the Antelope tract.

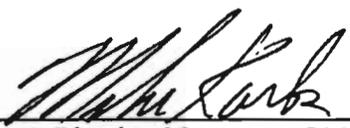
The Surface Mining Control and Reclamation Act of 1977 gives the Office of Surface Mining Reclamation and Enforcement the primary authority to administer programs regulating surface coal mining operations. In the state of Wyoming, the Wyoming Department of Environmental Quality has the approval of the Secretary of the Interior to regulate surface coal mining activities in the state. If the applicant, Antelope Coal Company, is the successful qualified high bidder on Federal coal tract WYW128322, it must obtain approval of a mine permit revision prior to beginning mining on the tract. Mitigation measures and monitoring plans specific to the approved mine plan are attached as conditions on the current mining permit and will be amended to include mitigation measures and monitoring plans specific to mining WYW 128322 when the current mining permit is revised.

All practicable means that have been established over the past two decades of mining and reclamation in the Powder River Basin to avoid or minimize environmental harm from the selected alternative have been adopted as leasing stipulations or, consistent with normal

practices, can be expected to be adopted as conditions of the mining permit prior to mining the proposed lease. BLM has a responsibility to review the mine permit application prior to its approval to ensure that the mine plan is in compliance with the leasing stipulations, and that the mine plan meets the requirements of the Mineral Leasing Act.

**RECOMMENDATION:**

I recommend that Federal coal tract WYW128322, affecting 617.2 acres, be issued to the successful qualified high bidder after a competitive lease sale, if it is determined that the highest bid meets or exceeds the fair market value of the tract as determined by the BLM, and if all other leasing requirements are met. The competitive lease sale will be held in accordance with the requirements of 43 CFR 3425. The lease will be subject to the existing and attached lease stipulations.

  
\_\_\_\_\_  
Casper District Manager, BLM

6/5/96  
\_\_\_\_\_  
Date

**Attachments**

Form 1842-1, Information on Taking Appeals to the Board of Land Appeals  
Special Lease Stipulations

United States Department of Agriculture  
Forest Service  
Rocky Mountain Region  
Lakewood, Colorado

CONSENT TO LEASE

Based on my review of the environmental assessment process, including public involvement, the issues and alternatives considered in detail, the analysis of the environmental consequences of the action, and my determination that the proposal is consistent and in compliance with the Medicine Bow National Forest and Thunder Basin National Grassland Land and Resource Management Plan, I concur with the Bureau of Land Management's (BLM) finding of no significant impact (FONSI), and I consent to the planned competitive lease sale of the Antelope LBA tract WYW128322. I have reviewed the BLM Decision Record and find that it, along with this consent, contains all necessary and appropriate declarations, disclosures and findings as required by USDA and Forest Service regulation and policy.

This decision to consent represents my agreement to an action proposed, and that will be implemented by another (lead) agency. The Forest Service role is that of a cooperator/contributor in matters of the surface environment, only, and the mitigation of effects to that environment in support of the lead agency's finding of no significant impact. Pursuant to 36 CFR 215.7, this consent is subject to appeal to a higher level of review. Any appeal of this consent must be fully consistent with 36 CFR 215.14 Content of an appeal, and must be filed with the Appeal Deciding Official, Chief's Office, U.S.D.A. Forest Service, 14th and Independence Ave., S.W., Washington, D.C. 20250, within 45 days from the date of publication of the Legal Notice of the signing of this consent in the Denver Post newspaper.

For additional information about this consent, the site-specific environmental assessment process which occurred by this lease application, or the Forest Service appeal process, contact the Regional Forester, P.O. Box 25127, Lakewood, Colorado 80225-25127.

Responsible Official:

  
\_\_\_\_\_  
Regional Forester

  
\_\_\_\_\_  
Date

RECEIVED  
96 JUL -3 AM 9:00  
BUREAU OF LAND MANAGEMENT  
CHEYENNE, WYOMING

**APPROVED:**

Based on the recommendations of the Casper District Manager, dated June 5, 1996, and with the consent of the Regional Forester, Rocky Mountain Region, dated June 23, 1996, I hereby approve the decision to offer Federal coal tract WYW128322 for competitive lease sale.

**Appeal Procedure**

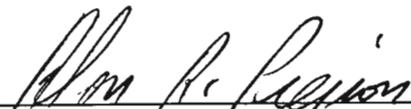
This decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR, Part 4 and the enclosed Form 1842-1. If an appeal is taken, your notice of appeal must be filed in this office (at the address shown on enclosed Form 1842-1) within 30 days from receipt of this decision. The appellant has the burden of showing that the decision appealed from is in error.

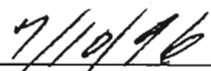
If you wish to file a petition [pursuant to regulation 43 CFR 4.21 (58 FR 4939, January 19, 1993)] (request) for a stay (suspension) of the effectiveness of this decision during the time that your appeal is being reviewed by the Board, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the notice of appeal and petition for a stay must also be submitted to each party named in this decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

**Standard for Obtaining a Stay**

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards:

- (1) The relative harm to the parties if the stay is granted or denied,
- (2) The likelihood of the appellant's success on the merits,
- (3) The likelihood of immediate and irreparable harm if the stay is not granted, and
- (4) Whether the public interest favors granting the stay.

  
\_\_\_\_\_  
Wyoming State Director, BLM

  
\_\_\_\_\_  
Date

## SPECIAL STIPULATIONS

Section 15. SPECIAL STIPULATIONS - In addition to observing the general obligations and standards of performance set out in the current regulations, the lessee shall comply with and be bound by the following stipulations. These stipulations are also imposed upon the lessee's agents and employees. The failure or refusal of any of these persons to comply with these stipulations shall be deemed a failure of the lessee to comply with the terms of the lease. The lessee shall require his agents, contractors and subcontractors involved in activities concerning this lease to include these stipulations in the contracts between and among them. These stipulations may be revised or amended, in writing, by the mutual consent of the lessor and the lessee at any time to adjust to changed conditions or to correct an oversight.

### (a) CULTURAL RESOURCES

(1) 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 office of the BLM or of the surface managing agency, if different, on portions of the mine plan area and adjacent areas, or exploration plan area, that may be adversely affected by lease-related activities and which 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 Western Support Center of the Office of Surface Mining, the authorized officer of the BLM, if activities are associated with the 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 lease lands. The lessee shall not commence the surface disturbing activities until permission to proceed is given by the Assistant Director or Authorized Officer.

(2) 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 an approved mining and reclamation plan or exploration plan.

(3) The cost of conducting the inventory, preparing reports, and carrying out mitigation measures shall be borne by the lessee.

(4) 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 (2) 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 lessee unless otherwise specified by the authorized officer of the BLM or of the surface managing agency, if different.

(5) All cultural resources shall remain under the jurisdiction of the United States until ownership is determined under applicable law.

(b) PALEONTOLOGICAL RESOURCES

If paleontological resources, either large and conspicuous, and/or of significant scientific value are discovered during mining operations, the find will be reported to the Authorized Officer immediately. Mining operations will be suspended within 250 feet of said find. An evaluation of the paleontological discovery will be made by a BLM or surface management agency approved professional paleontologist within five (5) working days, weather permitting, to determine the appropriate action(s) to prevent the potential loss of any significant paleontological value. Operations within 250 feet of such a discovery will not be resumed until written authorization to proceed is issued by the Authorized Officer. The lessee will bear the cost of any required paleontological appraisals, surface collection of fossils, or salvage of any large conspicuous fossils of significant interest discovered during the mining operations.

(c) MULTIPLE MINERAL DEVELOPMENT

Operations will not be approved which, in the opinion of the authorized Officer, would unreasonably interfere with the orderly development and/or production from a valid existing mineral lease issued prior to this one for the same lands. Lessor reserves the right in accordance with applicable coal regulations administered by Lessor to require the Operator/Lessee to modify the Resource Recovery and Protection Plan (R2P2) to minimize conflicts with other resources and to maximize recovery of all resources.

(d) OIL AND GAS/COAL RESOURCES

The BLM realizes that coal mining operations conducted on Federal coal leases issued within producing oil and gas fields may interfere with the economic recovery of oil and gas; just as Federal oil and gas leases issued in a Federal coal lease area may inhibit coal recovery. BLM retains the authority to alter and/or modify the resource recovery and protection plans for coal operations and/or oil and gas operations on those lands covered by Federal mineral leases so as to obtain maximum resource recovery.

(e) RESOURCE RECOVERY AND PROTECTION

Any bypass of Federal coal determined to be economically recoverable must have the written approval of the Authorized Officer of the BLM in the form of an approved modification to the Resource Recovery and Protection Plan (R2P2) prior to the Federal coal being bypassed. (43 CFR 3482.2(c)(2)) Failure to comply with this requirement shall result in the issuance of a Notice of Noncompliance by the Authorized Officer. The Notice of Noncompliance will include the amount of damages to be assessed for the unauthorized bypass of Federal coal as determined by the Authorized Officer. Lessee shall pay royalty for all coal not recovered which was available for mining and was economically recoverable by mining operations under an R2P2 approved by the Authorized Officer. The royalty shall be determined in accordance with Section 2.(a). PRODUCTION ROYALTIES, of this lease, and the value of the coal shall be determined as set forth in the applicable coal regulations administered by the Lessor. Federal coal not recovered, but which was available for recovery, will be volumetrically determined by the Authorized Officer using standard industry practices.

(f) PUBLIC LAND SURVEY PROTECTION

The lessee will protect all survey monuments, witness corners, reference monuments, and bearing trees against destruction, obliteration, or damage during operations on the lease areas. If any monuments, corners or accessories are destroyed, obliterated, or damaged by this operation, the lessee will hire an appropriate county surveyor or registered land surveyor to reestablish or restore the monuments, corners, or accessories at the same location, using surveying procedures in accordance with the "Manual of Surveying Instructions for the Survey of Public Lands of the United States". The survey will be recorded in the appropriate county records, with a copy sent to the authorized officer.

(g) COAL RESOURCES WITHIN THE BURLINGTON NORTHERN/CHICAGO NORTHWESTERN GILLETTE-ORIN MAINLINE RIGHT-OF-WAY

No mining activity of any kind may be conducted within the Burlington Northern/Chicago Northwestern Gillette-Orin Main Line Right-of-Way. The lessee shall recover all legally and economically recoverable coal from all leased lands not within the foregoing right-of-way. Lessee shall pay all royalties on any legally and economically recoverable coal which it fails to mine without the written permission of the authorized officer.

NOTICE FOR LANDS OF THE NATIONAL FOREST SYSTEM  
UNDER JURISDICTION OF  
DEPARTMENT OF AGRICULTURE96 JUL -3 AM 9:00  
RECEIVED  
CHEYENNE, WYOMING

The permittee/lessee must comply with all the rules and regulations of the Secretary of Agriculture set forth at Title 36, Chapter II, of the Code of Federal Regulations governing the use and management of the National Forest System (NFS) when not inconsistent with the rights granted by the Secretary of Interior in the permit. The Secretary of Agriculture's rules and regulations must be complied with for (1) all use and occupancy of the NFS prior to approval of an exploration plan by the Secretary of the Interior, (2) uses of all existing improvements, such as forest development roads, within and outside the area permitted by the Secretary of the Interior, and (3) use and occupancy of the NFS not authorized by an exploration plan approved by the Secretary of the Interior.

All matters related to this stipulation are to be addressed

to: District Ranger

at: 809 S. 9th Street, Douglas, WY 82633

Telephone: 307/358-4690

who is the authorized representative of the Secretary of Agriculture.

## NOTICE

CULTURAL AND PALEONTOLOGICAL RESOURCES - The FS is responsible for assuring that the leased lands are examined to determine if cultural resources are present and to specify mitigation measures. Prior to undertaking any surface-disturbing activities on the lands covered by this lease, the lessee or operator, unless notified to the contrary by the FS, shall:

1. Contact the FS to determine if a site specific cultural resource inventory is required. If a survey is required, then:
2. Engage the services of a cultural resource specialist acceptable to the FS to conduct a cultural resource inventory of the area of proposed surface disturbance. The operator may elect to inventory an area larger than the area of proposed disturbance to cover possible site relocation which may result from environmental or other considerations. An acceptable inventory

report is to be submitted to the FS for review and approval at the time a surface disturbing plan of operation is submitted.

3. Implement mitigation measures required by the FS and BLM to preserve or avoid destruction of cultural resource values. Mitigation may include relocation of proposed facilities, testing, salvage, and recordation or other protective measures. All costs of the inventory and mitigation will be borne by the lessee or operator, and all data and materials salvaged will remain under the jurisdiction of the U.S. Government as appropriate.

The lessee or operator shall immediately bring to the attention of the FS and BLM any cultural or paleontological resources or any other objects of scientific interest discovered as a result of surface operations under this lease, and shall leave such discoveries intact until directed to proceed by FS and BLM.

ENDANGERED OR THREATENED SPECIES - The FS is responsible for assuring that the leased land is examined prior to undertaking any surface-disturbing activities to determine effects upon any plant or animal species listed or proposed for listing as endangered or threatened, or their habitats. The findings of this examination may result in some restrictions to the operator's plans or even disallow use and occupancy that would be in violation of the Endangered Species Act of 1973 by detrimentally affecting endangered or threatened species or their habitats.

The lessee/operator may, unless notified by the FS that the examination is not necessary, conduct the examination on the leased lands at his discretion and cost. This examination must be done by or under the supervision of a qualified resource specialist approved by the FS. An acceptable report must be provided to the FS identifying the anticipated effects of a proposed action on endangered or threatened species or their habitats.