

1.0 INTRODUCTION

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

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

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

1.1 Background

On December 28, 2001, RAG Coal West, Inc. filed an application with the BLM for federal coal reserves in a tract located west of and immediately adjacent to the Eagle Butte Mine in Campbell County, Wyoming, approximately three miles north of Gillette, Wyoming (Figure 1-1). The tract, which was originally referred to as the Eagle Butte Mine West Extension LBA Tract, was assigned case file number WYW155132. The federal coal reserves were applied for as a maintenance tract for the Eagle Butte Mine. BLM subsequently renamed the tract the Eagle Butte West LBA Tract and RAG submitted modifications to the application to the BLM on April 8, 2002 and again on October 16, 2003, which decreased the size of the lease application area and increased the coal volume. BLM reviewed the current tract modification and notified the company by letter, dated March 8, 2005, that their application had been revised.

In August 2004, RAG finalized the sale of the Eagle Butte Mine to Foundation Coal West, Inc., a directly held subsidiary of Foundation Coal Corporation. In this EIS, the applicant for the Eagle Butte West LBA Tract will be referred to as FCW.

These federal coal lands are located within the Powder River Federal Coal Region, which was decertified in January 1990. Although the Powder River Federal Coal Region is decertified, the PRRCT, a federal/state advisory board established to develop

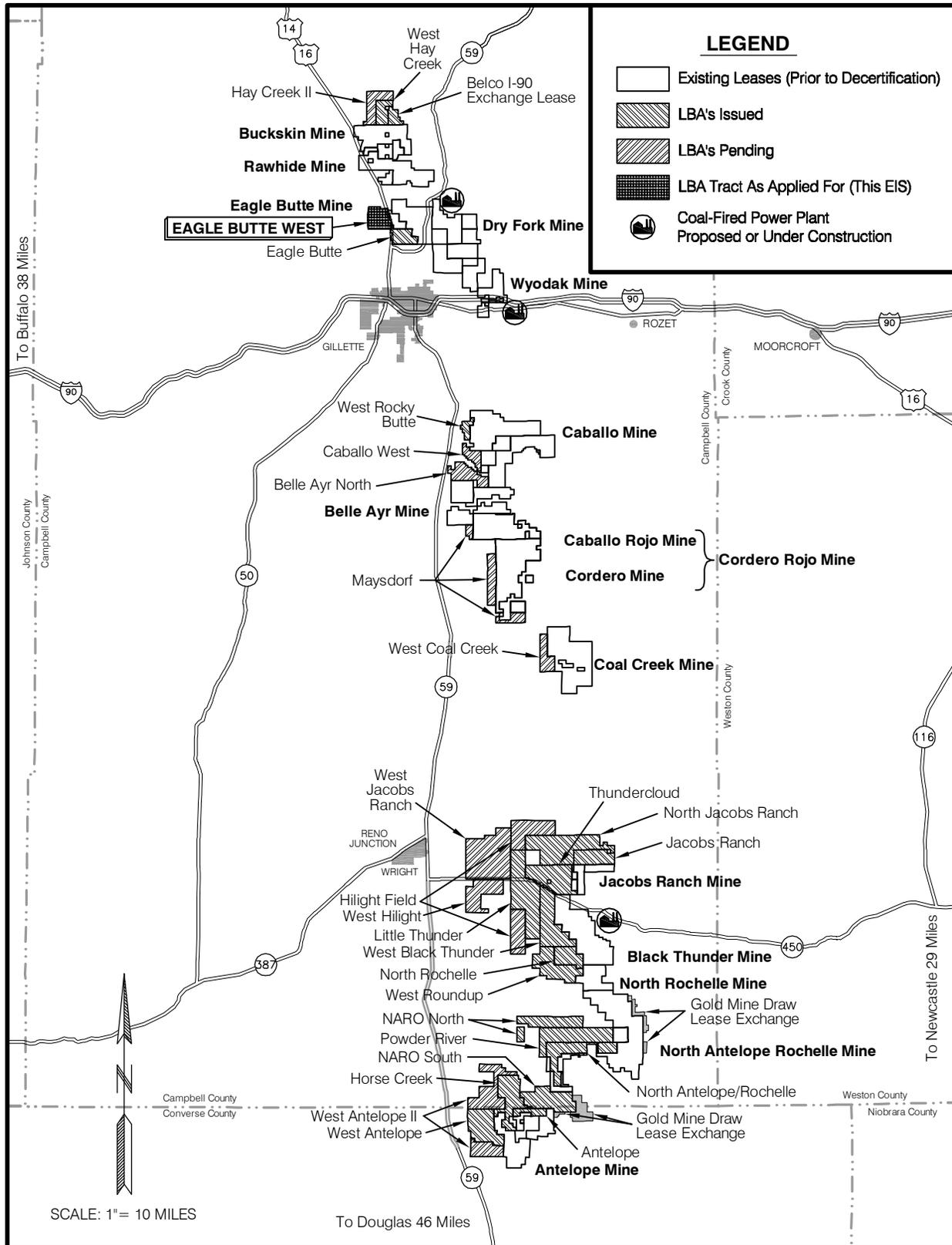


Figure 1-1. General Location Map with Federal Coal Leases and LBA Tracts.

recommendations concerning management of federal coal in the region, has continued to meet regularly and review all federal lease applications in the region. The PRRCT reviewed this maintenance coal lease application at public meetings held on May 30, 2002, in Casper, Wyoming and on April 27, 2005, in Gillette, Wyoming. The PRRCT recommended that the BLM continue to process the Eagle Butte West lease application at both meetings.

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

If the lease sale is held, a lease would be issued to the highest bidder at the sale if a federal sale panel determines that the high bid meets or exceeds the fair market value of the coal as determined by BLM's economic evaluation and if the U.S. Department of Justice determines that there would be no antitrust violations if a lease is issued to the high bidder.

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

Federal, state, and local agencies may qualify as cooperating agencies because of "jurisdiction by law or special expertise" (40 CFR 1501.6, 1508.5). Indian tribes may also qualify when the effects of a federal action are on a reservation. Other agencies may use this analysis to make decisions related to leasing and mining the federal coal in this tract. BLM invited the participation of potentially qualified agencies as cooperating agencies in the preparation of the Eagle Butte West Coal Lease Application EIS. In response, OSM, WDEQ/LQD, WDEQ/AQD, the Wyoming Department of Transportation, the Wyoming State Planning Office, and the Campbell County Board of Commissioners requested

cooperating agency status. OSM has primary responsibility to administer Federal programs that regulate surface coal mining operations. WDEQ has entered into a cooperative agreement with the Secretary of the Interior to regulate surface coal mining operations on federal and non-federal lands within the State of Wyoming. WYDOT's responsibilities include planning and supervising road improvement work, maintaining roads, and supporting airports and aviation in the state. The responsibilities of the CCBC include, but are not limited to, management and oversight of county roads and facilities and planning and zoning rules in the county.

Since decertification of the Powder River Federal Coal Region, 17 federal coal leases have been sold at competitive sealed-bid sales and three exchanges of federal coal in the Wyoming portion of the Powder River Federal Coal Region have been completed (Table 1-1). A lease for a tract adjacent to the Eagle Butte Mine was issued to RAG on August 1, 1995, after they submitted the successful bid for a maintenance tract at a competitive sealed-bid coal lease sale (Figure 1-1 and Table 1-1).

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

The Eagle Butte West LBA Tract as applied for and the existing federal coal leases in the adjacent Eagle Butte Mine are shown in Figure 1-2. As applied for, the Eagle Butte West LBA Tract consists of a single block of federal coal and includes

approximately 1,397.64 acres and an estimated 238 million tons of in-place coal reserves. Not all of the coal included in the Eagle Butte West LBA Tract is currently considered to be mineable. U.S. Highway 14-16 ROW overlies some of the coal included in the tract. SMCRA prohibits mining within 100 ft of the outside ROW line of any public road unless the appropriate public road authority allows the road to be relocated or closed after public notice, an opportunity for a public hearing, and a finding that the interests of the affected public and landowners will be protected [30 CFR 761.11(d)]. The coal underlying Highway 14-16 is included in the tract being considered for leasing because the coal under the highway could be mined if WYDOT, the authorized agency, determines that the road could be moved [43 CFR 3461.5(c)(2)(iii)]. If the highway is not moved, including the coal underlying the highway in the lease would allow maximum recovery of all the mineable coal adjacent to the highway ROW and buffer zone (100 ft on either side of the highway ROW). FCW estimates that approximately 27 million tons of mineable coal are within the ROW and associated buffer zone. Excluding the in-place reserves within the highway ROW and buffer zone, FCW estimates that approximately 211 million tons of in-place coal reserves are mineable and that approximately 203 million tons of coal would be recovered from the Eagle Butte West LBA Tract as applied for.

The Eagle Butte Mine, as currently permitted, includes 7,471 acres and

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

Leases Issued			
LBA Name (Lease Number)			
Applicant Mine			
Current Lessee	Acres	Mineable Tons	Successful
Effective Date	Leased¹	of Coal¹	Bid
Jacobs Ranch (WYW117924) Jacobs Ranch Mine Jacobs Ranch Coal Co. 10/1/1992	1,708.620	147,423,560	\$20,114,930.00
West Black Thunder (WYW118907) Black Thunder Mine Thunder Basin Coal Co. 10/1/1992	3,492.495	429,048,216	\$71,909,282.69
North Antelope/Rochelle (WYW119554) North Antelope & Rochelle Mines Powder River Coal Co. 10/1/1992	3,064.040	403,500,000	\$86,987,765.00
West Rocky Butte (WYW122586) No Existing Mine ² Caballo Coal Co. 1/1/1993	463.205	56,700,000	\$16,500,000.00
Eagle Butte (WYW124783) Eagle Butte Mine Foundation Wyoming Land Co. 8/1/1995	1,059.180	166,400,000	\$18,470,400.00
Antelope (WYW128322) Antelope Mine Antelope Coal Co. 2/1/1997	617.200	60,364,000	\$9,054,600.00
North Rochelle (WYW127221) North Rochelle Mine Ark Land Co. 1/1/1998	1,481.930	157,610,000	\$30,576,340.00
Powder River (WYW136142) North Antelope Rochelle Mine Powder River Coal Co. 9/1/1998	4,224.225	532,000,000	\$109,596,500.00
Thundercloud (WYW136458) Jacobs Ranch Mine Thunder Basin Coal Co., LLC 1/1/1999	3,545.503	412,000,000	\$158,000,008.50
Horse Creek (WYW141435) Antelope Mine Antelope Coal Co. 12/1/2000	2,818.695	275,577,000	\$91,220,120.70
North Jacobs Ranch (WYW146744) Jacobs Ranch Mine Jacobs Ranch Coal Co. 5/1/2002	4,982.240	537,542,000	\$379,504,652.00
NARO South (WYW154001) North Antelope Rochelle Mine BTU Western Resources, Inc. 9/1/2004	2,956.725	297,469,000	\$274,117,684.00

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

Leases Issued			
LBA Name (Lease Number)			
Applicant Mine			
Current Lessee	Acres	Mineable Tons	Successful
Effective Date	Leased¹	of Coal¹	Bid
West Hay Creek (WYW151634) Buckskin Mine Kiewit Mining Properties, Inc. 1/1/2005	921.158	142,698,000	\$42,809,400.00
Little Thunder (WYW150318) Black Thunder Mine Ark Land LT Co. 3/1/2005	5,083.500	718,719,000	\$610,999,949.80
West Antelope (WYW151643) Antelope Mine Antelope Coal Co. 3/1/2005	2,809.130	194,961,000	\$146,311,000.00
NARO North (WYW150210) North Antelope Rochelle Mine BTU Western Resources, Inc. 3/1/2005	2,369.380	324,627,000	\$299,143,785.00
West Roundup (WYW151134) North Rochelle Mine West Roundup Resources, Inc 5/1/2005	2,812.510	327,186,000	\$317,697,610.00
TOTALS	44,409.736	5,183,824,776	\$2,683,014,027.69
Exchanges Completed			
Exchange Name			
Case File Number			
Exchange Proponent			
Exchange Type	Acres	Mineable Tons	Federal Coal
Effective Date	Exchanged	of Coal	Exchanged for:
EOG (Belco) I-90 Lease Exchange WYW150152 EOG Resources (formerly Belco) ³ I-90 Lease Exchanged for New Lease 4/1/2000	599.170	106,000,000	Lease Rights to Belco I-90 Lease (WYW0322794).
Pittsburg & Midway Coal Exchange WYW148816 Pittsburg and Midway Coal Mining Co. Private Land Exchanged for Federal Coal 1/27/2005	2,045.530	84,200,000	6,065.77 acres of land and some minerals in Lincoln, Carbon, and Sheridan Counties, Wyoming.
Gold Mine Draw Lease Exchange WYW0321779, WYW154001 Powder River Coal Co. AVF Lease Exchanged for New Lease 6/25/2006	623.000	47,700,000	Lease rights to 921.60 acres of leased federal coal underlying an AVF.
TOTALS	3,267.700	237,900,000	
¹ Information from Sale Notice.			
² The West Rocky Butte LBA was originally leased to Northwestern Resources Co.			
³ The EOG Resources Belco Exchange lease is now owned by the Buckskin Mine.			

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

Pending LBAs				
LBA Name			Estimated as	
Lease Number	Application	Acres as	Applied for	Status
Applicant Mine	Date	Applied for	Coal (mmt)	
Maysdorf (formerly Mt. Logan) WYW154432 Cordero Rojo Mine	9/20/2001 Modified 11/8/2004	2,219.39	230.30 ²	PRRCT reviewed 5/30/2002 & 4/27/2005 FEIS in preparation
Eagle Butte West (formerly West Extension) WYW155132 Eagle Butte Mine	12/28/2001 Modified 10/16/2003	1,397.64	228.00 ³	PRRCT reviewed 5/30/2002 & 4/27/2005 DEIS in review
Belle Ayr North WYW161248 Belle Ayr Mine	7/06/2004	1,578.76	200.00 ³	PRRCT reviewed 4/27/2005
West Antelope II WYW163340 Antelope Mine	4/06/2005	4,108.60	429.70 ¹	PRRCT reviewed 4/27/2005
Highlight Field WYW164812 Black Thunder Mine	10/07/2005	4,590.19	588.20 ²	PRRCT reviewed 4/19/2006
West Hilight Field WYW172388 Black Thunder Mine	1/17/2006	2,370.52	428.00 ²	PRRCT reviewed 4/19/2006
West Coal Creek WYW172585 Coal Creek Mine	2/10/2006	1,151.26	57.00 ²	PRRCT reviewed 4/19/2006
Caballo West WYW172657 Caballo Mine	3/15/2006	777.48	87.52 ¹	PRRCT reviewed 4/19/2006
West Jacobs Ranch WYW172685 Jacobs Ranch Mine	3/24/2006	5,944.37	956.00 ³	PRRCT reviewed 4/19/2006
Hay Creek II WYW172684 Buckskin Mine	3/24/2006	1,447.00	148.00 ¹	PRRCT reviewed 4/19/2006
TOTALS		25,585.21	3,355.72	

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

² Estimated tons of mineable coal as reported in the lease application.

³ Estimated tons of recoverable coal as reported by the applicant.

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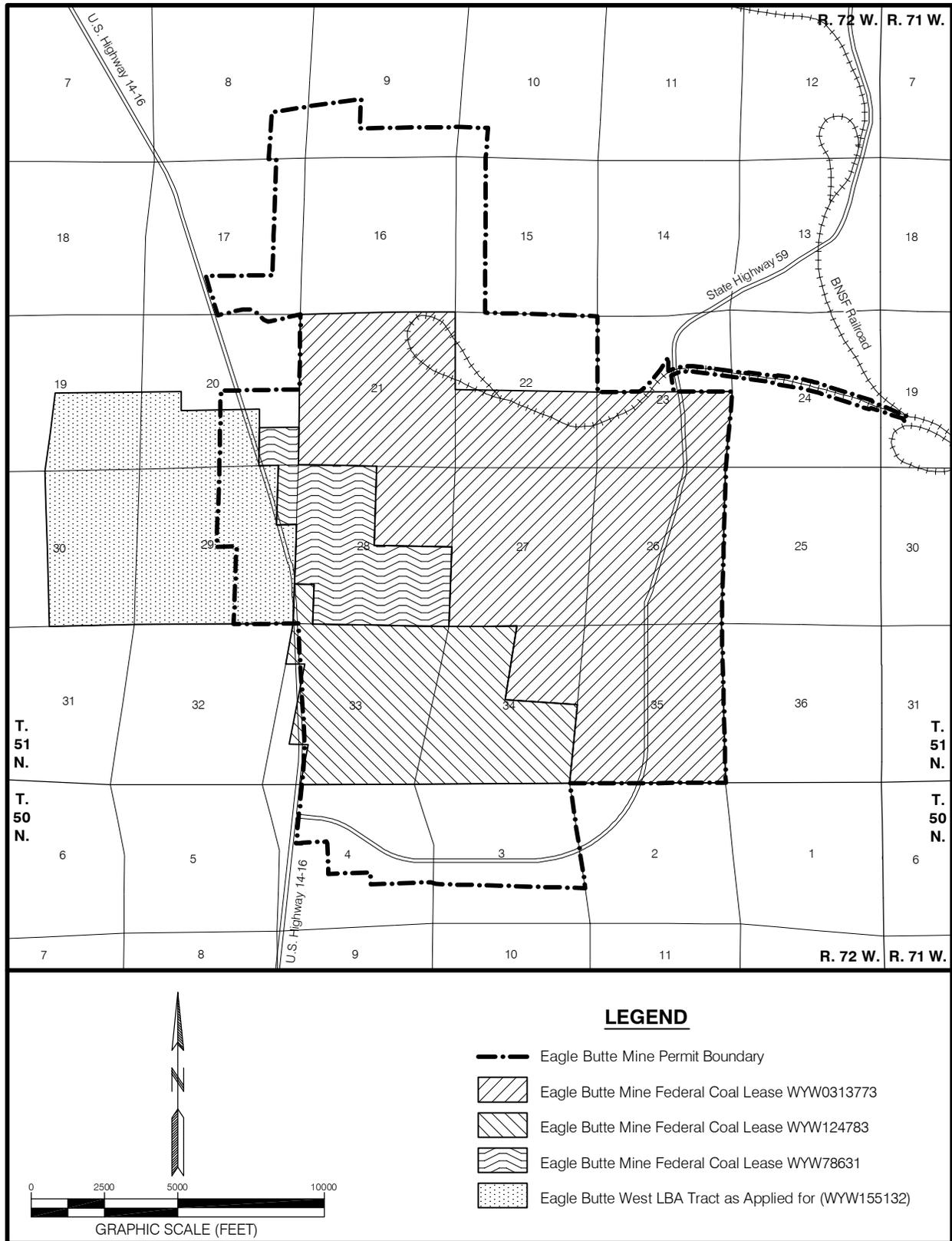


Figure 1-2. Eagle Butte Mine Federal Coal Leases and Eagle Butte West LBA Tract as Applied for.

originally contained approximately 707.9 million tons of mineable coal reserves. As of January 1, 2006, an estimated 374 million tons of in-place coal reserves remained at the Eagle Butte Mine. FCW estimates that approximately 340 million tons of those remaining reserves would be recoverable. Eagle Butte Mine's currently approved (by WDEQ/AQD on October 24, 2005) air quality permit (MD-1251) allows up to 35 million tons of coal per year to be mined. The Eagle Butte Mine produced approximately 18.6 million tons of coal in 2000, 24.8 million tons of coal in 2001, 24.9 million tons of coal in 2002, 24.7 million tons of coal in 2003, 23.0 million tons of coal in 2004, and 24.1 million tons of coal in 2005.

The Eagle Butte West LBA Tract is contiguous to and west of the Eagle Butte Mine and a portion of the tract lies within the Eagle Butte Mine's current mining permit boundary (Figure 1-2). The area applied for is substantially similar to the adjacent mine for which detailed site-specific environmental data have been collected and for which environmental analyses have previously been prepared to secure the existing lease and necessary mining permits. As shown in Figure 1-1, the Eagle Butte West tract is not contiguous with other existing mines in this area.

The surface of the Eagle Butte West LBA Tract as applied for is owned by FCW. Currently, the principal land uses within the LBA tract is grazing by domestic animals and wildlife habitat. The grazing lands include agricultural pasturelands and native

grasslands. CBNG production is also a major land use within the LBA tract.

The mining method would be truck and shovel, which is the mining method currently in use at the Eagle Butte Mine. The coal would be used primarily for electric power generation.

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

1.2 Purpose and Need for Action

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

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

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tract, or reject the current lease application and not offer the tract for sale at this time.

FCW has applied for the coal reserves in the Eagle Butte West LBA Tract in order to extend the life of the Eagle Butte Mine. Based upon the current projected annual coal production over the life of the mine, the applicant currently estimates that the existing recoverable reserves at the Eagle Butte Mine will be depleted within approximately 13.6 years at an average production rate of approximately 25 million tons per year. According to the most recent information from FCW, beginning year 2006 and assuming that the coal underlying Highway 14-16 is not mined, the Eagle Butte Mine plans to produce an average of approximately 25 million tons per year for nearly 22 years if they acquire a lease for the Eagle Butte West LBA Tract. Thus, acquiring the new lease would enable the mine to increase its productive life by just over eight years. If the coal underlying the highway is mined, production would be extended for about an additional year. If the LBA tract is leased to the applicant as a maintenance tract, the mining and reclamation permit for the adjacent Eagle Butte Mine would have to be amended to include the new lease area before it could be disturbed. This process takes several years to complete. FCW is applying for federal coal reserves now so that they can negotiate new contracts and then complete the permitting process in time to meet anticipated new contract requirements.

As discussed above, the purpose of FCW's application is to allow the Eagle Butte Mine access to a continuing supply of low sulfur compliance coal, which it can continue to sell to power plants for the purpose of electric power generation. Continued leasing of PRB coal enables coal-fired power plants to meet CAA requirements without constructing new plants, revamping existing plants, or switching to existing alternative fuels, which would probably significantly increase power costs for individuals and businesses.

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

This EIS analyzes the environmental impacts of issuing a federal coal lease and mining the federal coal in the Eagle Butte West maintenance coal lease application as required by

NEPA and associated rules and guidelines. A decision to hold a competitive sale and issue a lease for the lands in this application is a prerequisite for mining but it is not the enabling action that would allow mining to begin. The BLM does not authorize mining operations by issuing a lease. After a lease has been issued but prior to mine development, the lessee must file a permit application package with the WDEQ/LQD and OSM for a surface mining permit and approval of the MLA mining plan. An analysis of a detailed site-specific mining and reclamation plan occurs at that time. Authorities and responsibilities of the BLM and other concerned regulatory agencies are described in the following sections.

1.3 Regulatory Authority and Responsibility

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

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

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

OSM is a cooperating agency on this EIS. After a federal coal lease is issued, SMCRA gives OSM primary responsibility to administer programs that regulate surface coal mining operations and the surface effects of underground coal mining operations. WDEQ is also a cooperating agency on this EIS. Pursuant to Section 503 of SMCRA, the WDEQ developed, and in November 1980 the Secretary of the Interior approved, a permanent program authorizing WDEQ to regulate surface coal mining operations and surface effects of underground mining on nonfederal lands within the State of Wyoming. In January 1987, pursuant to Section 523(c) of SMCRA, WDEQ entered into a cooperative agreement with the Secretary of the Interior authorizing WDEQ to regulate surface coal mining operations and surface effects of underground mining on federal lands within the state.

Pursuant to the cooperative agreement, a federal coal lease holder in Wyoming must submit a permit application package to OSM and WDEQ/LQD for any proposed coal mining and reclamation operations on federal lands in the state. WDEQ/LQD reviews the permit application package to insure the permit application complies with the permitting requirements and the coal mining operation meets the performance standards of the approved Wyoming program. OSM, BLM, and other federal agencies review the permit application package to insure it complies with the terms of the coal lease, the MLA, NEPA, and other federal laws and their attendant regulations. If the

permit application package does comply, WDEQ issues the applicant a permit to conduct coal mining operations. OSM recommends approval, approval with conditions, or disapproval of the MLA mining plan to the Assistant Secretary of the Interior, Land and Minerals Management. Before the MLA mining plan can be approved, the BLM must concur with this recommendation.

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

WDEQ enforces the performance standards and permit requirements for reclamation during a mine's operation and has primary authority in environmental emergencies. OSM retains oversight responsibility for this enforcement. Where federal surface or coal resources are involved, BLM has authority in

emergency situations if WDEQ or OSM cannot act before environmental harm and damage occurs. In preparing this EIS, BLM also has a responsibility to consult with and obtain the comments and assistance of other state and federal agencies that have jurisdiction by law or special expertise with respect to potential environmental impacts.

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

1.4 Relationship to BLM Policies, Plans, and Programs

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

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

1.5 Conformance with Existing Land Use Plans

FCLAA requires that lands considered for leasing be included in a comprehensive land use plan and

that leasing decisions be compatible with that plan. The BLM *Approved Resource Management Plan for Public Lands Administered by the Bureau of Land Management Buffalo Field Office* (BLM 2001a) [an update of the *Buffalo Resource Area Resource Management Plan* (BLM 1985)] governs and addresses the leasing of federal coal in Campbell County.

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

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

Only those federal coal lands that pass these screens are given further consideration for leasing. BLM has applied these coal screens to federal coal lands in Campbell County several times, starting in the early 1980s. Most recently, in 1993, BLM began the process of reapplying

these screens to federal coal lands in Campbell, Converse, and Sheridan Counties. This analysis was adopted in the 2001 BLM Buffalo Field Office RMP update (BLM 2001a). The results of this analysis were included as Appendix D of the 2001 BLM Buffalo Field Office RMP update, which can be viewed in the 2001 NEPA documents section on the Wyoming BLM website at <http://www.wy.blm.gov>.

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

The coal mining unsuitability criteria listed in the federal coal management regulations (43 CFR 3461) have been applied to high to moderate coal development potential lands in the Wyoming PRB, including the Eagle Butte West LBA Tract and surrounding lands during the coal screening conducted for the 2001 BLM Buffalo Office RMP update. No lands included in the Eagle Butte West LBA Tract were found to be unsuitable for mining during the application of the unsuitability criteria for the 2001 RMP update; however, site-specific unsuitability determinations for some criteria were deferred until an application to lease was filed.

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Appendix B of this EIS summarizes the unsuitability criteria, describes the general findings for the 2001 BLM Buffalo Field Office RMP update, and presents a validation of these findings for the Eagle Butte West LBA Tract.

Unsuitability Criterion Number 3 states that lands within 100 ft of the outside line of the ROW of a public road shall be considered unsuitable for surface coal mining, with certain exceptions. One of the exceptions allows surface coal mining in the ROW and buffer zone for a public road if the regulatory authority (or the appropriate public road authority designated by the regulatory authority) allows the public road to be relocated or closed after providing public notice and opportunity for a public hearing; and finding in writing that the interests of the affected public and landowners will be protected [30 CFR 761.11(d) and 43 CFR 3461.5(c)(iii)].

As discussed in Section 1.1 and shown in Figure 1-2, a portion of U.S. Highway 14-16 crosses the eastern edge of the Eagle Butte West LBA Tract. The 2001 BLM Buffalo RMP update deferred a decision on the unsuitability of the U.S. Highway 14-16 ROW and associated buffer zone until a leasing action occurred, with the assumption that the exception discussed above would be applicable. At this time, FCW does not have approval from the appropriate public road authority (WYDOT) to relocate the road and the exception does not apply. As a result, BLM has determined that the portion of the Eagle Butte West LBA Tract within

the ROW for U.S. Highway 14-16 and the 100-ft buffer zone on either side of the ROW must be considered unsuitable for mining under Unsuitability Criterion Number 3 at this time.

FCW is proposing to obtain approval from WYDOT to relocate U.S. Highway 14-16 so that they can recover the coal underlying the highway ROW and buffer zone. If the road relocation is approved, the exception would be applicable and the unsuitability determination for the coal underlying the U.S. Highway 14-16 ROW and associated buffer zone would be re-evaluated.

Although lands within the Highway 14-16 ROW and associated buffer zone are now determined to be unsuitable for mining, they are included in the LBA tract. If FCW does not get approval to relocate the road and the unsuitability designation remains in place, including these lands in the tract will allow recovery of all the mineable coal outside of the highway ROW and associated buffer zone and will comply with the coal leasing regulations, which do not allow leasing in less than 10-acre aliquot parts. If a permit to relocate the road is approved, including these lands will allow recovery of the coal underlying the highway ROW and associated buffer zone. A stipulation stating that no mining activity may be conducted within the U.S. Highway 14-16 ROW and associated buffer zone until a permit to move the highway is approved will be attached if a lease is issued for this tract. The exclusion of the coal underlying the highway ROW and associated buffer zone from mining

activity by lease stipulation honors the finding of unsuitability for mining under Unsuitability Criterion Number 3 for the U.S. Highway 14-16 ROW and associated buffer zone.

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

The municipal/residential multiple land use conflict was addressed in the 1985 Buffalo RMP by applying buffers around the municipal planning boundaries for the major municipalities within the BLM Buffalo Field Office area, including Gillette. The Gillette Buffer Zone, which extends three miles beyond the City of Gillette Planning District (Figure 1-3), was established at the request of the city in 1979 during the planning process when the predecessor to the Buffalo RMP (the Buffalo Management Framework Plan) was amended. The Buffalo Management Framework Plan included a provision that prohibited new coal leasing within the Gillette Buffer Zone. The Buffer Zone provision was carried forward into the BLM Buffalo RMP (1985) and the BLM Buffalo RMP update (2001). The purpose of the buffer zone is to allow for community expansion and open space. At the time the Gillette

Buffer Zone was established, many existing coal leases associated with existing approved coal mining operations were located within its northern and eastern boundaries (Figure 1-3). These mining operations were allowed to continue operations within the buffer zone.

In 1987, the Wyodak Mine (Figure 1-3) applied for a lease modification to acquire a small portion of federal coal within the buffer zone that would be bypassed if it was not mined with the adjacent leased coal. The City of Gillette passed a resolution in favor of approving Wyodak’s proposed lease modification (Gillette City Council Resolution 634, 12/7/1987). In response to Wyodak’s application and the resolution, the Buffalo RMP was amended in 1988 to allow lease modifications, exchanges, and emergency coal leasing within the Gillette Buffer Zone in situations where coal adjacent to existing mines would be bypassed if coal leasing was not allowed within the buffer zone, and where coal leasing would not conflict with city planning. These leasing actions cannot extend more than one mile beyond the existing coal lease boundaries. The RMP amendment also specified that, before any new coal is leased within the buffer zone, the coal screening process, including application of the coal unsuitability criteria, would be conducted and the Gillette City Council would be consulted.

The PRRCT decertified the Powder River Federal Coal Region in 1990, which allowed BLM to begin processing applications to lease federal coal under the Leasing on

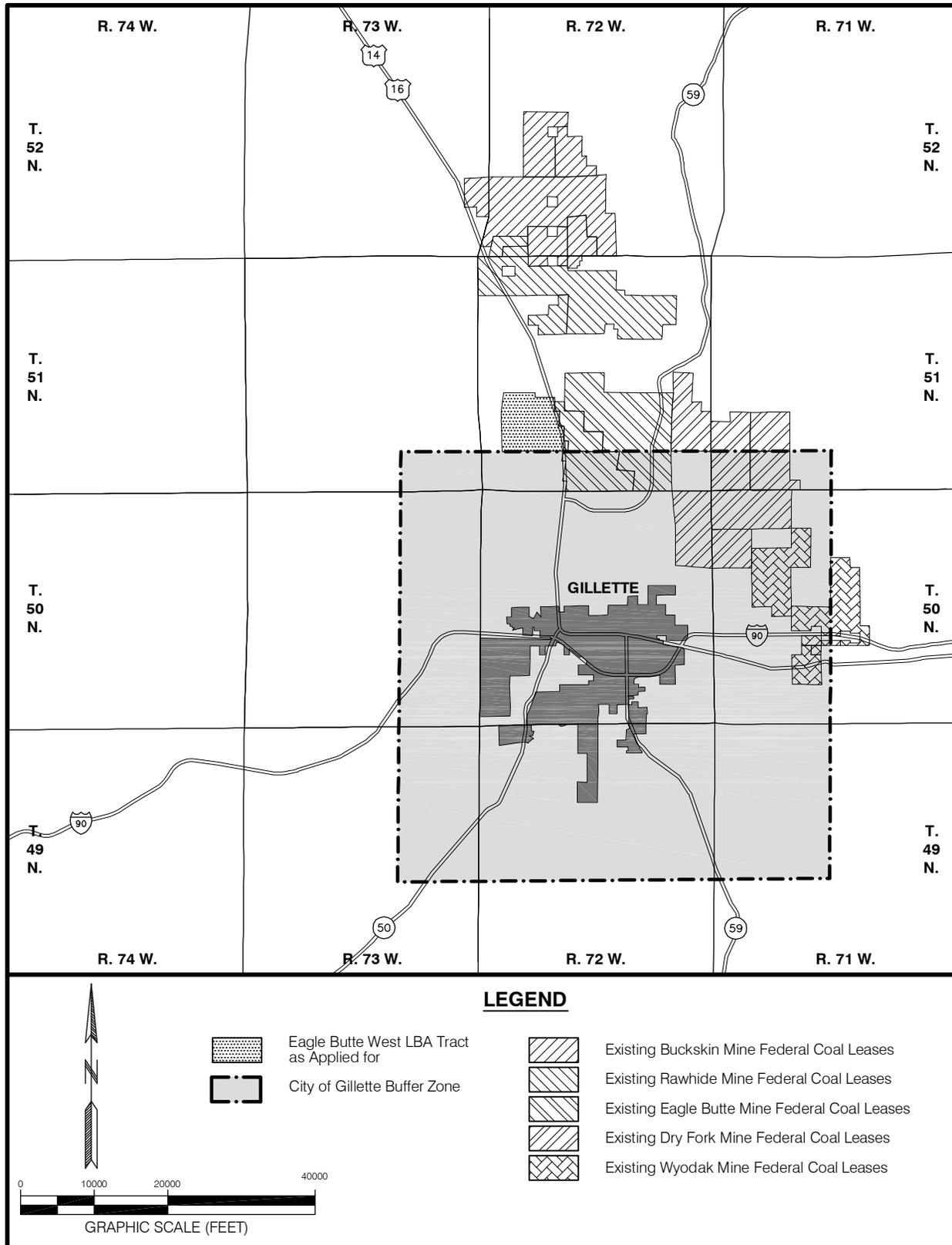


Figure 1-3. City of Gillette Buffer Zone.

Application regulations, which are found under the regulations at 43 CFR 3425. On July 25, 1991, the operator of the Eagle Butte Mine (AMAX Land Company at that time) filed an application, under the regulations at 43 CFR 3425, for a tract of federal coal that extended one mile into the Gillette Buffer Zone. The City of Gillette passed a resolution in support of AMAX's proposed LBA on July 1, 1991.

The 1988 amendment to the Buffalo RMP did not specifically identify Leasing on Application as being allowed within the Gillette Buffer Zone. The regulations that apply to emergency coal leasing, found at 43 CFR 3425, are the same regulations that apply to Leasing on Application (the LBA process). Therefore, on August 17, 1993, the manager of the BLM Buffalo Field Office approved a change to the Buffalo RMP that added LBAs to the types of leasing actions that can be considered in the Gillette Buffer Zone.

A portion of the Eagle Butte Mine West Extension LBA Tract as originally applied for by RAG on December 28, 2001 was within the Gillette Buffer Zone, between the Gillette-Campbell County Airport runways. The City of Gillette provided a letter to RAG dated May 1, 2002, stating they had no objection to Eagle Butte Mine's plan to expand mining operations onto the Eagle Butte Mine West Extension LBA Tract (now called the Eagle Butte West LBA Tract), as it had been presented to them. On October 16, 2003, the BLM received an application to modify the Eagle Butte West LBA Tract. The modified

tract configuration did not include the portion of the tract within the Gillette Buffer Zone that was included in the original application.

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

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

Surface owner consultation was completed during the preparation of

coal screening analyses published in 2001 Buffalo RMP. Qualified private surface owners in the Gillette coal development potential area were provided the opportunity to express their preference for or against surface mining of federal coal under their private surface estate during both these screenings (see Chapter 7 for a definition of a “qualified surface owner”). No federal coal lands within the Eagle Butte West LBA Tract were eliminated from further consideration for leasing due to qualified surface owner conflicts at that time. Currently, the surface of the Eagle Butte West LBA Tract as applied for is owned by FCW. BLM will review the current surface ownership in any tract that is considered for leasing and any private surface owners who are determined to be qualified will be consulted prior to holding a lease sale for the tract.

In summary, the lands in the FCW coal lease application have been subjected to the four coal planning screens and determined acceptable for further consideration for leasing. Thus, a decision to lease the federal coal lands in this application would be in conformance with the current BLM Buffalo RMP.

1.6 Consultation and Coordination

Initial Involvement

BLM received the Eagle Butte West coal lease application on December 28, 2001. The application was initially reviewed by the BLM, Wyoming State Office, Division of Mineral and Lands. The BLM ruled that the application and lands

involved met the requirements of regulations governing coal leasing on application (43 CFR 3425).

A notice announcing the receipt of the Eagle Butte West coal lease application published in the *Federal Register* on April 29, 2002 served as public notice that this coal lease application had been received. Copies of the notice were sent to voting and nonvoting members of the PRRCT, including the governors of Wyoming and Montana, the Northern Cheyenne Tribe, the Crow Tribal Council, OSM, USFWS, National Park Service, and U.S. Geological Survey. The April 29, 2002 *Federal Register* notice refers to the tract as the Eagle Butte Mine West Extension LBA Tract. The tract was subsequently renamed the Eagle Butte West LBA Tract.

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

The BLM published a Notice of Intent to Prepare an Environmental Impact Statement and Notice of Scoping in the *Federal Register* on May 2, 2005. The publications announced the time and location of a public scoping meeting and requested public comment on the application. Letters requesting

public comment and announcing the time and location of the public scoping meeting were mailed to all parties on the distribution list in April 2005.

A public scoping meeting was held on May 17, 2005 in Gillette, Wyoming. At the public meeting, the applicant orally presented information about their mine and their need for the coal. The presentation was followed by a question and answer period, during which 22 oral comments were made. The scoping period extended from May 2 through August 1, 2005, during which time BLM received written, e-mailed, and telephoned-in comments from 16 entities.

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

Issues and Concerns

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

- potential conflicts with existing conventional oil and gas development and existing and proposed CBNG development;
- cumulative impacts of mineral development on all other resources;
- validity and currency of resource data;

- potential impacts to public access, particularly if U.S. Highway 14-16 were moved;
- potential impacts to occupied dwellings and the school building located nearby;
- potential impacts to the structural integrity of the Gillette-Campbell County Airport;
- potential impacts to aircraft landing at and taking off from the airport and any possible disruptions of the airport's operations by mining activities;
- potential impacts to threatened and endangered species and other species of concern;
- potential air quality impacts (including cumulative impacts to visibility);
- potential surface and groundwater quality and quantity impacts;
- potential impacts of and possible mitigation for nitrogen oxide emissions resulting from blasting of coal and overburden;
- the need to include reasonably foreseeable actions such as the construction and operation of the DM&E railroad and power plants in the cumulative analysis;
- the need to address increasing coal production in the PRB in the cumulative analysis;
- potential impacts on cultural and paleontological resources;
- potential impacts to wetland resources; and
- short- and long-term impacts on aquatic and terrestrial wildlife species.

Draft EIS

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

A notice announcing the availability of the Draft EIS will be published in the *Federal Register* by the EPA. A 60-day comment period on the Draft EIS will commence with publication of the EPA's notice of availability. The BLM will publish a Notice of Availability/Notice of Public Hearing in the *Federal Register*. The BLM's *Federal Register* notice will announce the date and time of a public hearing to be held during the 60-day comment period. The purpose of the public hearing will be to solicit public comments on the Draft EIS and on the fair market value, the maximum economic recovery, and the proposed competitive sale of federal coal from the LBA tract. The BLM will also publish a notice of public hearing in the Gillette News-Record.

Final EIS and Future Involvement

All substantive written comments received on the Draft EIS will be included, with agency responses, in the Final EIS. Availability of the Final EIS will be published in the *Federal Register* by the BLM and the EPA. After a 30-day availability period, BLM will make a decision to hold or not to hold a competitive lease sale for the federal coal in the Eagle Butte West LBA Tract. A public ROD for the tract will be mailed to parties on the mailing list and others who commented on this EIS during the NEPA process. The

public and/or the applicant can appeal the BLM decision to hold or not to hold a competitive sale and issue a lease for the tract. The BLM decision must be appealed within 30 days from the date the Notice of Availability for the Record of Decision is published in the *Federal Register*. The decision can be implemented at that time if no appeal is received. If a competitive lease sale is held, the lease sale will follow the procedures set forth in 43 CFR 3422, 43 CFR 3425, and BLM Handbook H-3420-1 (Competitive Coal Leasing).

Department of Justice Consultation

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