

3436 (GMD)
W-3397
W-83394

**U.S. DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT**

FINDING OF NO SIGNIFICANT IMPACT

And

DECISION RECORD

for the

**GOLD MINE DRAW ALLUVIAL VALLEY FLOOR
COAL LEASE EXCHANGE**

CAMPBELL AND CONVERSE COUNTIES, WYOMING

INTRODUCTION

Powder River Coal Company (PRCC) filed an application to exchange portions of two federal coal leases (W-3397 and W-83394) located at the Caballo Mine that contain an Alluvial Valley Floor (AVF) designated by the State of Wyoming Department of Environmental Quality as significant to agriculture. The application was filed with the Bureau of Land Management (BLM) in July 2003 under the 43 Code of Federal Regulations (CFR) 3436 - Coal Lease and Coal Land Exchanges: Alluvial Valley Floors. The offered tract is known as the Gold Mine Draw AVF exchange (GMDX) tract. The GMDX tract includes approximately 921 acres and contains an estimated 67 million tons of in-place coal reserves in Campbell County, Wyoming. The Caballo Mine has a permit (approved by both the Wyoming Department of Environmental Quality, Land Quality Division (WDEQ/LQD) and the Department of the Interior to conduct surface coal mining operations on their existing leases. The mine also has an air quality permit approved by the Wyoming Department of Environmental Quality, Air Quality Division (WDEQ/AQD) to mine up to 40 million tons of coal per year.

The GMDX tract is located in the Powder River Federal Coal Region, which was decertified in 1990. This application was reviewed by the Powder River Regional Coal Team (RCT) at their April 2005 public meeting in Gillette, Wyoming and the RCT was updated on the status of the application at the April 2006 public meeting in Casper, Wyoming. PRCC and BLM both presented information about the Caballo Mine and pending exchange application to the RCT at the 2005 meeting and the RCT recommended that the BLM process the exchange application.

Under the exchange process, applicants nominate potential tracts of interest and the BLM may identify additional potential tracts for consideration. During the process, the applicant identified one potential tract and the BLM identified seven additional tracts. All of the eight tracts are adjacent to the three mines controlled by the applicant in the Powder River Basin. To process an exchange, the BLM must evaluate the quantity, quality, maximum economic recovery (MER), and fair market value (FMV) of the Federal coal included in both the offered and the potential tracts and evaluate the environmental impacts of leasing and mining the federal coal in an environmental assessment (EA) or an environmental impact statement (EIS). BLM does not authorize mining by issuing a lease for

federal coal, but the impacts of mining are considered in the environmental analysis since mining is a logical consequence of issuing a lease. The impacts of leasing and mining the identified potential tracts were analyzed in an EA. The Office of Surface Mining Reclamation and Enforcement, which administers programs that regulate surface coal mining, was a cooperating agency on the EA. The U.S. Forest Service was also a cooperating agency as they administer the surface estate on four of the identified tracts.

The BLM prepared three regional EIS's analyzing the impacts of surface coal mining in the Wyoming portion of the Powder River Basin in 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 Caballo Mine is included in the impact analyses in all four regional BLM EIS's. All of the mines that are currently operating in the Wyoming portion of the Powder River Basin, the proposed Rocky Butte Mine, and a mine proposed for the now terminated Keeline lease are included in the impact analyses that were prepared for the 1981 and 1984 documents. The 1981 regional EIS predicted that 318.4 million tons of coal would be mined in Campbell and Converse counties in 1990. According to the annual Wyoming Inspector of Mines reports, the actual 1990 production from the mines in those counties was 162.6 million tons. The estimated 2000 production from the mines in those counties was around 320 million tons of coal.

FINDING OF NO SIGNIFICANT IMPACT

Based upon the analysis conducted for the "Final Environmental Assessment for the Gold Mine Draw, Alluvial Valley Floor Coal Lease Exchange" and the protective measures described in the Special Lease Stipulations (attached), the Proposed Action will not cause significant impacts to the quality of the human, natural and physical environment. Therefore, an environmental impact statement is not necessary.

DECISION

The BLM has concluded that the exchange is in the public interest for the environmental and resource recovery reasons discussed in the selected alternative discussion (below). The BLM's decision is to issue lease modifications located at the North Antelope / Rochelle Mine in exchange for the relinquishment of the GMDX tract located at the Caballo Mine. (See attached maps)

Under the selected alternative, the federal coal tracts identified as the East Burn tracts #1-4 and the South Spur tracts #5 & 6 have been selected for the exchange. In addition, a total payment of \$355,000.00 will be made by PRCC as a Lease Modification Fair Market Value payment. Table 1 shows the tonnage and quality of the offered and selected tracts.

This decision is consistent with the BLM Buffalo Resource Management Plan (covering Campbell County), the Platte River Resource Management Plan (covering Converse County) and the Thunder Basin National Grassland Land Use Plan. This decision incorporates by reference the standard coal

lease stipulations addressing compliance with basic requirements of the environmental statutes and all applicable BLM special stipulations.

The No action alternative was not selected. If the GMDX application is rejected (No Action alternative), the applicant will retain the right to apply for a new lease exchange requiring the BLM to evaluate additional potential tracts. In addition, the selection of the No Action Alternative may lead to the bypass of federal coal in some of the selected tracts and would not preclude future leasing of all or part of the lands included in the identified potential lease tracts. It would be environmentally preferable to mine and reclaim the selected tracts as a part of the normal operations at the North Antelope / Rochelle Mine as the tracts will be largely disturbed by currently permitted mining activities.

REASONS FOR THE DECISION

The decision to offer the selected tracts of federal coal resources, in response to the coal lease exchange application received in July 2003, is in conformance with the BLM land use planning. The selected alternative proposes exchanging portions of two federal coal leases (W-3397 & W-83394), known as the GMDX tract, at the Caballo Mine for the selected tracts located at the North Antelope / Rochelle Mine. Issuance of coal lease modifications will avoid a potential bypass situation for the coal included in the tracts and fulfills the government's obligation to exchange leases to protect Alluvial Valley Floors significant to agriculture.

PUBLIC INVOLVEMENT

The GMDX application was initially presented at the 2005 RCT meeting in Gillette, WY. The RCT recommended that the BLM process the exchange application. Notices of scoping were mailed to Federal, State, and local government agencies, conservation groups, commodity groups, and individuals who could be impacted by this exchange application in May 2005. BLM received seven written comments that were then addressed in the Draft Environmental Assessment (DEA). A Notice of Availability of the DEA and Notice of Public Hearing were published on March 22, 2006 in the Federal Register. Additional notices were published in the Gillette and Douglas newspapers announcing the Public Hearing. A Public Hearing was held on April 11, 2006 in Gillette, WY. No comments were received at the Public Hearing. Two comments were received during the 30 day DEA comment period ending April 21, 2006. Neither comment required additional analysis. One comment letter (WGFD) was supportive, and the other (Wendell Funk) raised issues beyond the scope of this proposal, and was answered in a letter sent to Mr. Funk. The EA was finalized on April 27, 2006 and a notice was mailed to all affected parties on April 28, 2006.

ALTERNATIVES ANALYZED

The EA analyzes eight identified tracts located at three different mines.

Proposed Action; Exchange One or More of the Identified tracts in an Equal Value Exchange

The proposed action requires the BLM and the proponent to negotiate an equal value exchange. Through the process of evaluating the proposed tracts, it was determined that six of the tracts located at the North Antelope/Rochelle Mine would be preferable for the exchange. This determination was made based on several factors including, the non-competitive nature of the tracts, the value of the tracts, the potential bypass and loss of coal resources on the tracts, the currently approved disturbance of a majority of the tracts under current mine permits and the acceptance of the proposal by the qualified exchange proponent.

One of the two tracts that was not selected, namely the Caballo West tract, was determined to be competitive in nature and the public interest would be better served if this tract were to be incorporated into a competitive coal sale in the future. The other tract that was not selected, namely the South Channel tract, was determined as having a low potential for immediate bypass and could be incorporated into a lease modification in the future.

Therefore, the tracts selected for the exchange are in the best interest of the public for the reasons previously discussed as well as the fact that these tracts have been thoroughly reviewed for incorporation into the existing mine permits by the Wyoming Department of Environmental Quality.

Table 1: Coal tonnages and quality by tract

Tract	Tons	BTU	Sulfur
Gold Mine Draw	66,754,800	8,049	0.45%
Tract #1	378,000	8,371	0.29%
Tract #2	10,273,000	8,422	0.26%
Tract #3	8,222,300	8,373	0.22%
Tract #4	5,906,600	8,370	0.25%
East Burn	24,779,900	8,393	0.25%
Tract #5	1,078,600	8,754	0.26%
Tract #6	21,797,600	8,714	0.21%
South Spur	22,876,200	8,716	0.21%
Total	47,656,100	8,548	0.23%

Table 2: Legal Descriptions of the Exchange tracts

Offered Tract - (GMDX tract)

Township 48 North, Range 70 West, 6th PM
Section 18, lots 15-18;

Township 48 North, Range 71 West, 6th PM
Section 11, lot 16 (SE $\frac{1}{4}$);
Section 12, lots 13, 14, lot 15 (W $\frac{1}{2}$, SE $\frac{1}{4}$);
Section 13, lots 1 (SW $\frac{1}{4}$), lots 2-8, 11-14;
Section 14, lots 1, 8 (E $\frac{1}{2}$);
Section 24, lots 1-3.
Containing 921.6 acres more or less

The surface estate overlying the Federal coal is privately owned.

Selected Tracts

East Burn tract #1

Township 42 North, Range 69 West, 6th PM
Sec. 18: Lot 13(S $\frac{1}{2}$);
Sec. 19: Lots 6 (S $\frac{1}{2}$), 7, 9, 11 (NW $\frac{1}{4}$), 12.
Containing 170.68 acres, more or less.

East Burn tract #2

Township 42 North, Range 69 West, 6th PM
Sec. 19: Lot 15;
Sec. 29: Lot 4 (W $\frac{1}{2}$);
Sec. 30: Lots 5-7.
Containing 184.47 acres, more or less

East Burn tract #3

Township 42 North, Range 69 West, 6th PM
Sec. 29: Lots 5, 12, 13, 14 (SW $\frac{1}{4}$);
Sec. 32: Lots 3 (W $\frac{1}{2}$), 4, 5 (N $\frac{1}{2}$).
Containing 214.798 acres, more or less

East Burn tract #4

Township 41 North, Range 69 West, 6th PM

Sec. 5: Lots 8, 9, 16.

Containing 123.50 acres, more or less.

South Spur tract #5

Township 41 North, Range 70 West, 6th PM

Sec. 21: Lots 9 (SW¹/₄), 10 (S¹/₂), 11 (S¹/₂), 14, 15, 16 (W¹/₂);

Sec. 27: Lots 4 (S¹/₂), 5, 12-14, 15 (W¹/₂);

Sec. 28: Lots 1 (W¹/₂, SE¹/₄), 2, 7-10, 12 (E¹/₂) 13-15;

Sec. 33: Lots 1-3, 4 (NE¹/₄), 6 (N¹/₂), 7 (N¹/₂), 8 (N¹/₂);

Sec. 34: Lots 2 (W¹/₂), 3, 4, 5 (N¹/₂), 6 (N¹/₂), 7 (NW¹/₄).

Containing 1,072.06 acres, more or less.

South Spur tract #6

Township 41 North, Range 70 West, 6th PM

Sec. 29: Lots 13, 14 (N¹/₂, SW¹/₄), 15 (N¹/₂).

Containing 91.285 acres, more or less.

The proposed action assumes that the coal in the selected tracts will be mined, processed, and sold by the applicant's North Antelope / Rochelle Mine.

NO ACTION ALTERNATIVE

Under this alternative, the GMDX application would be rejected as proposed, and the identified tracts would be rejected for the purpose of the exchange. If the GMDX application is rejected, the applicant retains the right as a qualified exchange proponent to request that new tracts be considered for exchange and the exchange process would begin again. Mining activity at the adjacent North Antelope / Rochelle Mine has already been permitted and will continue, and the majority of the surface of the selected tracts will be disturbed to recover the coal in the existing adjacent Federal coal leases.

Rejection of this exchange application at this time would not, however, preclude subsequent lease applications for all or part of the lands included in the selected tracts although some or all of the coal in the selected tracts may be bypassed in the interim and no mechanism currently exists to require the proponent to apply for these tracts. Therefore the risk exists that these tracts, if not exchanged, will never be mined and the resource will become uneconomic for future recovery leading to a failure to conserve the resource.

MITIGATION, COMPLIANCE AND MONITORING

The standard coal lease stipulations addressing compliance with basic requirements of the environmental statutes will be attached to the new Federal coal leases when the exchange is concluded. Consistent with the EA, the applicable BLM Special Stipulations regarding cultural resources, paleontological resources, threatened and endangered species, multiple mineral development, oil and gas/coal resources, resource recovery and protection, and public land survey protection will be added to the coal leases. The existing mitigation measures specific to the current mine plan will be amended to include mitigation measures specific to mining the selected tracts when the current mining permit is revised.

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. Approval of a mining and reclamation plan revision must be obtained prior to mining coal on the tracts. Mitigation measures and monitoring plans specific to the approved mining and reclamation plan are attached as conditions on all currently approved mining permits, and will be attached to any mining and reclamation plan revision or new mining and reclamation plan before the tracts are mined.

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 mining and reclamation plan revision prior to its approval by Wyoming Department of Environmental Quality and the Department of the Interior to ensure that the revised plan is in compliance with the leasing stipulations, and that it meets the requirements of the Mineral Leasing Act. The revised mining and reclamation plan must be approved before mining can begin on the selected tracts.

RECOMMENDATION:

I recommend that the BLM Wyoming State Director approve a decision to issue a lease modification to Federal Coal Lease WYW-0321779, held by Powder River Coal LLC, encompassing the East Burn tracts (1-4), and an additional lease modification to Federal Coal Lease WYW-154001, held by BTU Western Resources, Inc., encompassing the South Spur tracts (5&6), affecting 1,856.793 acres, more or less, after the relinquishment of the offered tract, the receipt of a Lease Modification Fair Market Value payment of \$355,000.00, and if all other leasing requirements are met. As stated on page 2, this action is not expected to have significant impacts on the human environment and therefore an environmental impact statement is not required.



Assistant Casper Field Manager, Solid Minerals, BLM

May 18, 2006

Date

APPROVED:

I agree with the recommendation of the Casper Field Manager, dated May 18, 2006, that the exchange is in the public interest, and not environmental impact statement is required. I approve the decision to issue lease modifications for federal coal on the six selected tracts if all leasing requirements are met. The lease modifications will be subject to all applicable BLM Special Stipulations.



Wyoming State Director, BLM

5/25/06

Date

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 (Bureau of Land Management, State Director, P.O. Box 1828, Cheyenne, WY 82003) within thirty (30) days from the date BLM notifies the public of this Record of Decision. The appellant has the burden of showing that the decision appealed from is in error.

If you wish to file a petition (request) pursuant to regulation 43 CFR 4.21(a)(2) 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

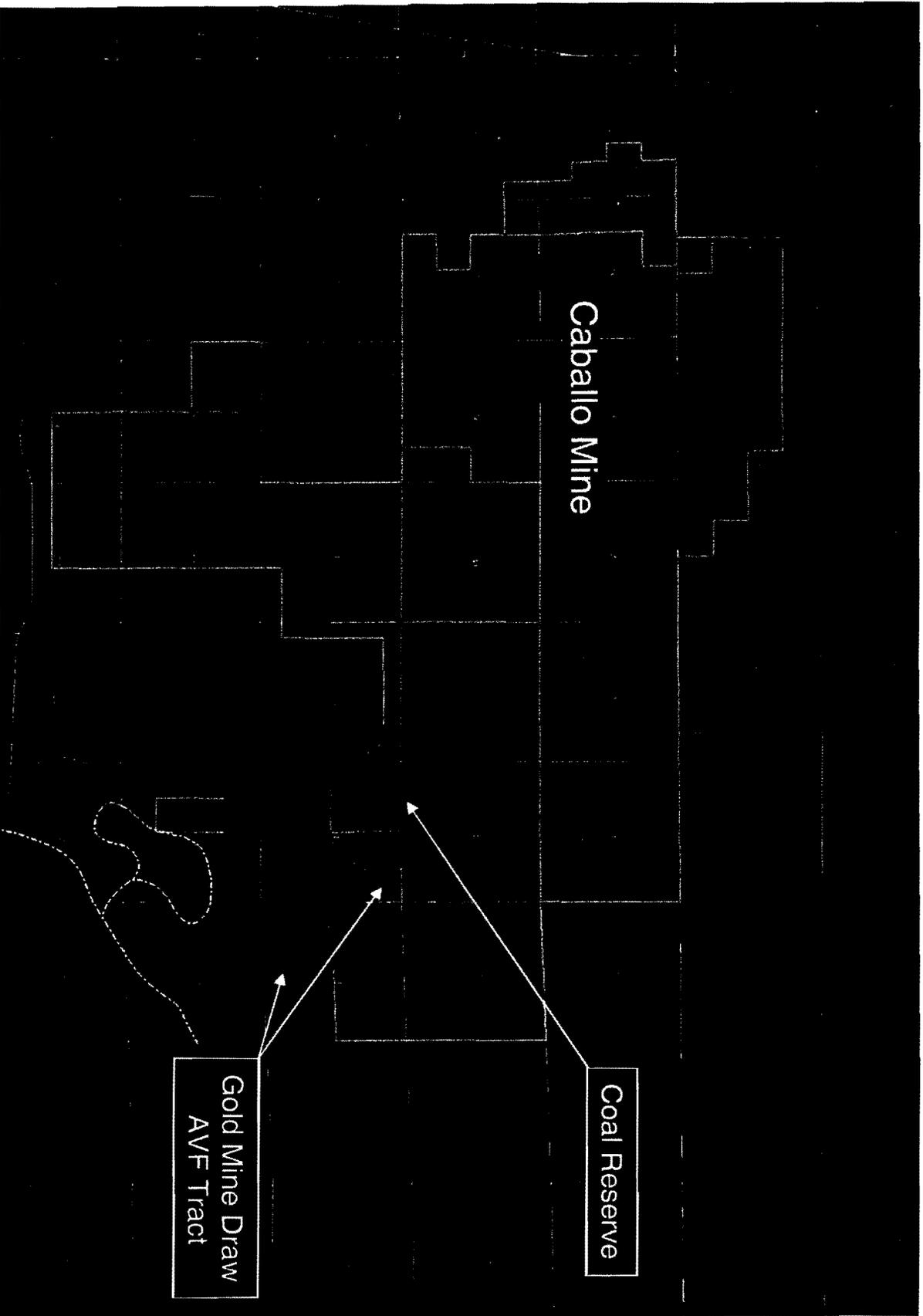
Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards:

- (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.

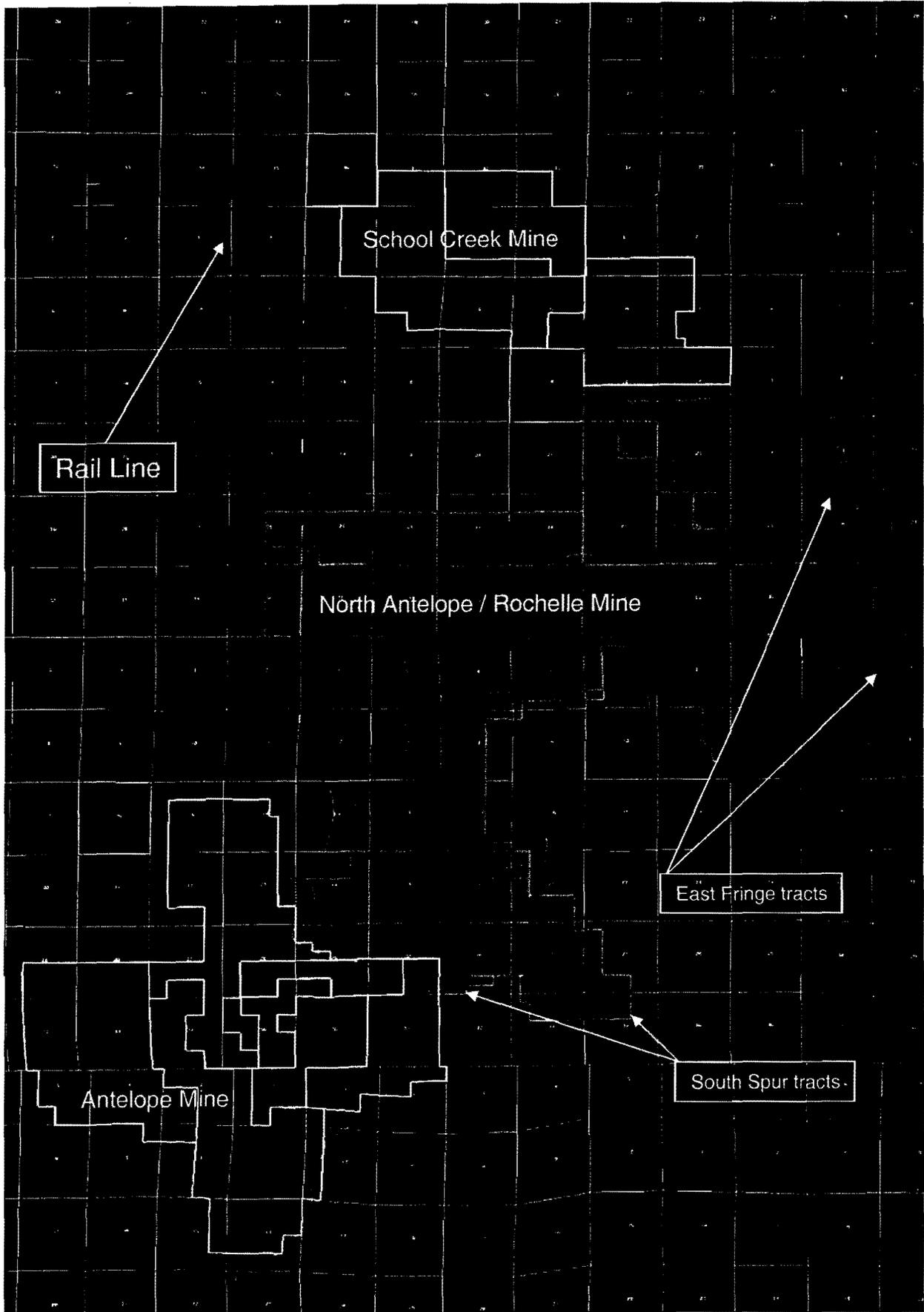
3 Attachment

Special Coal Lease Stipulations
Form 1842-1, Information on Taking Appeals to the Board of Land Appeals
USFS Leasing Consent Decision

Offered Tract – Gold Mine Draw AVF



Selected Tracts – East Fringe & South Spur



SEC. 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 special 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 Officer 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., archeologist, 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 Office of the BLM, if activities are associated with coal exploration outside an approved mining permit area (hereinafter called Authorized Officer), and the Authorized Officer of the surface managing agency, if different. The lessee shall undertake measures, in accordance with instructions from the Assistant Director, or Authorized Officer, to protect cultural resources on the leased lands. The lessee shall not commence the surface disturbing activities until permission to proceed is given by the Assistant Director or Authorized Officer.

(2) The lessee shall protect all cultural properties that have been determined eligible to the National Register of Historic Places 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 or exploration plan unless modified by mutual agreement in consultation with the State Historic Preservation Officer.

(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

SEC. 15. **SPECIAL STIPULATIONS** (Continued) -

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 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 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 or significant scientific interest discovered during the operations.

(c) **THREATENED and ENDANGERED SPECIES** - The lease area may now or hereafter contain plants, animals, or their habitats determined to be threatened or endangered under the Endangered Species Act of 1973, as amended, 16 U.S.C. 1531 *et seq.*, or that have other special status. The Authorized Officer may recommend modifications to exploration and development proposals to further conservation and management objectives or to avoid activity that will contribute to a need to list such species or their habitat or to comply with any biological opinion issued by the Fish and Wildlife Service for the proposed action. The Authorized Officer will not approve any ground-disturbing activity that may affect any such species or critical habitat until it completes its obligations under applicable requirements of the Endangered Species Act. The Authorized Officer may require modifications to, or disapprove a proposed activity that is likely to result in jeopardy to the continued existence of a proposed or listed threatened or endangered species, or result in the destruction or adverse modification of designated or proposed critical habitat.

The lessee shall comply with instructions from the Authorized Officer of the surface managing agency (BLM, if the surface is private) for ground disturbing activities associated with coal exploration on federal coal leases prior to approval of a mining and reclamation permit or outside an approved mining and reclamation permit area. The lessee shall comply with instructions from the Authorized Officer of the Office of Surface Mining Reclamation and Enforcement, or his designated representative, for all ground-disturbing activities taking place within an approved mining and reclamation permit area or associated with such a permit.

SEC. 15. **SPECIAL STIPULATIONS** (Continued) -

(d) **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.

(e) **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.

(f) **RESOURCE RECOVERY AND PROTECTION** - Notwithstanding the approval of a resource recovery and protection plan (R2P2) by the BLM, lessor reserves the right to seek damages against the operator/lessee in the event (i) the operator/lessee fails to achieve maximum economic recovery (MER) (as defined at 43 CFR 3480.0-5(21)) of the recoverable coal reserves or (ii) the operator/lessee is determined to have caused a wasting of recoverable coal reserves. Damages shall be measured on the basis of the royalty that would have been payable on the wasted or unrecoverable coal.

The parties recognize that under an approved R2P2, conditions may require a modification by the operator/lessee of that plan. In the event a coal bed or portion thereof is not to be mined or is rendered unmineable by the operation, the operator/lessee shall submit appropriate justification to obtain approval by the Authorized Officer to lease such reserves unmined. Upon approval by the Authorized Officer, such coal beds or portions thereof shall not be subject to damages as described above. Further, nothing in this section shall prevent the operator/lessee from exercising its right to relinquish all or portion of the lease as authorized by statute and regulation.

In the event the Authorized Officer determines that the R2P2, as approved, will not attain MER as the result of changed conditions, the Authorized Officer will give proper notice to the operator/lessee as required under applicable regulations. The Authorized Office will order a modification if necessary, identifying additional reserves to be mined in order to attain MER. Upon a final administrative or judicial ruling upholding such an ordered modification, any reserves left unmined (wasted) under that plan will be subject to damages as described in the first paragraph under this section.

Subject to the right to appeal hereinafter set forth, payment of the value of the royalty on such unmined recoverable coal reserves shall become due and payable upon determination by the Authorized Officer that the coal reserves have been rendered unmineable or at such time that the operator/lessee had demonstrated an unwillingness to extract the coal.

The BLM may enforce this provision either by issuing a written decision requiring payment of the MMS demand for such royalties, or by issuing a notice of non-compliance. A decision or notice of non-compliance issued by the lessor that payment is due under this stipulation is appealable as allowed by law.

SEC. 15. **SPECIAL STIPULATIONS** (Continued) -

(g) **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 locations, using the surveying procedures in accordance with the "Manual of Surveying Instructions for the Survey of the Public Lands of the United States." The survey will be recorded in the appropriate county records, with a copy sent to the Authorized Officer.

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

INFORMATION ON TAKING APPEALS TO THE INTERIOR BOARD OF LAND APPEALS

DO NOT APPEAL UNLESS

1. This decision is adverse to you,
AND
2. You believe it is incorrect

IF YOU APPEAL, THE FOLLOWING PROCEDURES MUST BE FOLLOWED

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| 1. NOTICE OF APPEAL..... | A person served with the decision being appealed must transmit the <i>Notice of Appeal</i> in time for it to be filed in the office where it is required to be filed within 30 days after the date of service. If a decision is published in the FEDERAL REGISTER, a person not served with the decision must transmit a <i>Notice of Appeal</i> in time for it to be filed within 30 days after the date of publication (43 CFR 4.411 and 4.413). |
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| 2. WHERE TO FILE NOTICE OF APPEAL..... | BUREAU OF LAND MANAGEMENT, 5353 YELLOWSTONE RD, CHEYENNE, WY 82009 OR
BUREAU OF LAND MANAGEMENT, PO BOX 1828, CHEYENNE, WY 82003 |
| WITH COPY TO SOLICITOR.... | U.S. DEPARTMENT OF THE INTERIOR, OFFICE OF THE SOLICITOR, ROCKY MOUNTAIN REGION
755 PARFET STREET, SUITE 151, LAKEWOOD, CO 80215 |
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| 3. STATEMENT OF REASONS | Within 30 days after filing the <i>Notice of Appeal</i> , file a complete statement of the reasons why you are appealing. This must be filed with the United States Department of the Interior, Office of Hearings and Appeals, Interior Board of Land Appeals, 801 N. Quincy Street, MS 300-QC, Arlington, Virginia 22203. If you fully stated your reasons for appealing when filing the <i>Notice of Appeal</i> , no additional statement is necessary (43 CFR 4.412 and 4.413). |
| WITH COPY TO SOLICITOR..... | U.S. DEPARTMENT OF THE INTERIOR, OFFICE OF THE SOLICITOR, ROCKY MOUNTAIN REGION
755 PARFET STREET, SUITE 151, LAKEWOOD, CO 80215 |
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| 4. ADVERSE PARTIES..... | Within 15 days after each document is filed, each adverse party named in the decision and the Regional Solicitor or Field Solicitor having jurisdiction over the State in which the appeal arose must be served with a copy of: (a) the <i>Notice of Appeal</i> , (b) the Statement of Reasons, and (c) any other documents filed (43 CFR 4.413). If the decision concerns the use and disposition of public lands, including land selections under the Alaska Native Claims Settlement Act, as amended, service will be made upon the Associate Solicitor, Division of Land and Water Resources, Office of the Solicitor, United States Department of the Interior, Washington, D.C. 20240. If the decision concerns the use and disposition of mineral resources, service will be made upon the Associate Solicitor, Division of Mineral Resources, Office of the Solicitor, United States Department of the Interior, Washington, D.C. 20240. |
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| 5. PROOF OF SERVICE..... | Within 15 days after any document is served on an adverse party, file proof of that service with the United States Department of the Interior, Office of Hearings and Appeals, Interior Board of Land Appeals, 801 N. Quincy Street, MS 300-QC, Arlington, Virginia 22203. This may consist of a certified or registered mail "Return Receipt Card" signed by the adverse party (43 CFR 4.401(c)). |
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| 6. REQUEST FOR STAY..... | Except where program-specific regulations place this decision in full force and effect or provide for an automatic stay, the decision becomes effective upon the expiration of the time allowed for filing an appeal unless a petition for a stay is timely filed together with a <i>Notice of Appeal</i> (43 CFR 4.21). If you wish to file a petition for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the Interior Board of Land Appeals, the petition for a stay must accompany your <i>Notice of Appeal</i> (43 CFR 4.21 or 43 CFR 2801.10 or 43 CFR 2881.10). A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the <i>Notice of Appeal</i> 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 (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.

Standards for Obtaining a Stay. Except as other provided by law or other pertinent regulations, 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. |
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Unless these procedures are followed, your appeal will be subject to dismissal (43 CFR 4.402). Be certain that all communications are identified by serial number of the case being appealed.

NOTE: A document is not filed until it is actually received in the proper office (43 CFR 4.401(a)). See 43 CFR Part 4, subpart b for general rules relating to procedures and practice involving appeals.

(Continued on page 2)

43 CFR SUBPART 1821—GENERAL INFORMATION

Sec. 1821.10 Where are BLM offices located? (a) In addition to the Headquarters Office in Washington, D.C. and seven national level support and service centers, BLM operates 12 State Offices each having several subsidiary offices called Field Offices. The addresses of the State Offices can be found in the most recent edition of 43 CFR 1821.10. The State Office geographical areas of jurisdiction are as follows:

STATE OFFICES AND AREAS OF JURISDICTION:

Alaska State Office ——— Alaska
Arizona State Office ——— Arizona
California State Office ——— California
Colorado State Office ——— Colorado
Eastern States Office ——— Arkansas, Iowa, Louisiana, Minnesota, Missouri
and, all States east of the Mississippi River
Idaho State Office ——— Idaho
Montana State Office ——— Montana, North Dakota and South Dakota
Nevada State Office ——— Nevada
New Mexico State Office — New Mexico, Kansas, Oklahoma and Texas
Oregon State Office ——— Oregon and Washington
Utah State Office ——— Utah
Wyoming State Office ——— Wyoming and Nebraska

(b) A list of the names, addresses, and geographical areas of jurisdiction of all Field Offices of the Bureau of Land Management can be obtained at the above addresses or any office of the Bureau of Land Management, including the Washington Office, Bureau of Land Management, 1849 C Street, NW, Washington, DC 20240.

(Form 1842-1, September 2005)

**DECISION NOTICE
AND
FINDING OF NO SIGNIFICANT IMPACT**

**GOLD MINE DRAW ALLUVIAL VALLEY FLOOR
COAL LEASE EXCHANGE**

CAMPBELL AND CONVERSE COUNTIES, WYOMING

INTRODUCTION

Powder River Coal Company (PRCC) filed an application to exchange portions of two federal coal leases (W-3397 and W-83394) located at the Caballo Mine that contain an Alluvial Valley Floor (AVF) designated by the State of Wyoming Department of Environmental Quality as significant to agriculture. The application was filed with the Bureau of Land Management (BLM) in July 2003 under the 43 Code of Federal Regulations (CFR) 3436 - Coal Lease and Coal Land Exchanges: Alluvial Valley Floors. The offered tract is known as the Gold Mine Draw AVF exchange (GMDX) tract. The GMDX tract includes approximately 921 acres and contains an estimated 67 million tons of in-place coal reserves in Campbell County, Wyoming. The Caballo Mine has a permit approved by both the Wyoming Department of Environmental Quality, Land Quality Division (WDEQ/LQD) and the Department of the Interior to conduct surface coal mining operations on their existing leases. The mine also has an air quality permit approved by the Wyoming Department of Environmental Quality, Air Quality Division (WDEQ/AQD) to mine up to 40 million tons of coal per year.

The GMDX tract is located in the Powder River Federal Coal Region, which was decertified in 1990. This application was reviewed by the Powder River Regional Coal Team (RCT) at their April 2005 public meeting in Gillette, Wyoming and the RCT was updated on the status of the application at the April 2006 public meeting in Casper, Wyoming. PRCC and BLM both presented information about the Caballo Mine and pending exchange application to the RCT at the 2005 meeting and the RCT recommended that the BLM process the exchange application.

Under the exchange process, applicants nominate potential tracts of interest and the BLM may identify additional potential tracts for consideration. During the process, the applicant (PRCC) identified one potential tract and the BLM identified seven additional tracts. All of the eight tracts are adjacent to one of the three mines controlled by the applicant in the Powder River Basin. To process an exchange, the BLM must evaluate the quantity, quality, maximum economic recovery (MER), and fair market value (FMV) of the Federal coal included in both the offered and the potential tracts and evaluate the environmental impacts of leasing and mining the federal coal in an environmental assessment (EA) or an environmental impact statement (EIS). BLM does not authorize mining by issuing a lease for federal coal, but the impacts of mining are considered in the environmental analysis since mining is a logical consequence of issuing a lease. The impacts of

leasing and mining the identified potential tracts were analyzed in an EA. The Office of Surface Mining Reclamation and Enforcement, which administers programs that regulate surface coal mining, was a cooperating agency on the EA. The U.S. Forest Service, also a cooperating agency, administers the surface estate on four of the identified tracts.

The BLM prepared three regional EIS's analyzing the impacts of surface coal mining in the Wyoming portion of the Powder River Basin in 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 Caballo Mine is included in the impact analyses in all four regional BLM EIS's. All of the mines that are currently operating in the Wyoming portion of the Powder River Basin, the proposed Rocky Butte Mine, and a mine proposed for the now terminated Keeline lease are included in the impact analyses that were prepared for the 1981 and 1984 documents. The 1981 regional EIS predicted that 318.4 million tons of coal would be mined in Campbell and Converse counties in 1990. According to the annual Wyoming Inspector of Mines reports, the actual 1990 production from the mines in those counties was 162.6 million tons. The estimated 2000 production from the mines in those counties was around 320 million tons of coal.

DECISION

Based upon my review of all alternatives presented in the Environmental Assessment for the Gold Mine Draw, Alluvial Valley Floor coal lease exchange prepared by the BLM, March 2006, it is my decision to consent to lease the lands with National Forest System (NFS) surface in the selected tracts described in proposed action, known as the East Burn Tracts #1-#4. This decision gives the BLM my consent to exchange the coal lease on the following NFS lands for coal leased at the Caballo Mine. The BLM has my consent to issue new leases located at the North Antelope / Rochelle Mine in exchange for the relinquishment of the GMDX tract located at the Caballo Mine. (See attached maps) Under the selected alternative, the federal coal tracts identified as the East Burn tracts #1-4 and the South Spur tracts #5 & #6 have been selected for the exchange. The South Spur Tracts #5 & #6 are located on private surface and are outside the scope of this decision.

My consent decision is conditioned on application of the Notice for Lands of the National Forest System under Jurisdiction of the Department of Agriculture (FS Notice) on the Gold Mine Draw Coal Lease Exchange Tracts (BLM Case File Nos. W-3397 and W-83394), when and if the tracts are leased. The FS Notice is included in this document as Appendix A. This notice addresses compliance with basic requirements of environmental statutes and BLM and Forest Service special requirements.

This decision is consistent with the 2002 Land and Resource Management Plan for the Thunder Basin National Grassland. The area of the proposed lease exchange is in the Hilight Bill Geographic Area (TBNG Plan Chapter 2, page 2-21). As described in the plan, "Mineral exploration and development and livestock grazing will be significant management activities in this geographic area. In some areas, there may be restrictions on public use to ensure public safety and to avoid unreasonable interference with mineral operations." The proposed lease exchange is also in the 8.4 Mineral Production and Development management area. This management area direction states:

“Mineral operations of all types are emphasized to effectively remove available commercial mineral resources, concurrent with other ongoing resource uses and activities.”

The No action alternative was not selected. If the GMDX application is rejected, the applicant will retain the right to apply for a new lease exchange requiring the BLM to evaluate additional potential tracts. In addition, the selection of the No Action Alternative may lead to the bypass of federal coal in some of the selected tracts and would not preclude future leasing of all or part of the lands included in the identified potential lease tracts. It would be environmentally preferable to mine and reclaim the selected tracts as a part of the normal operations at the North Antelope / Rochelle Mine as the tracts will be largely disturbed by currently permitted mining activities.

Table 1: Coal tonnages and quality by tract

Tract	Tons	BTU	Sulfur
Tract #1	378,000	8,371	0.29%
Tract #2	10,273,000	8,422	0.26%
Tract #3	8,222,300	8,373	0.22%
Tract #4	5,906,600	8,370	0.25%
East Burn Tracts	Total 24,779,900	Avg 8,393	Avg 0.25%

Table 2: Legal Descriptions of the Exchange tracts

Offered Tract - (GMDX tract)

Township 48 North, Range 70 West, 6th PM
Section 18, lots 15-18;

Township 48 North, Range 71 West, 6th PM
Section 11, lot 16 (SE¹/₄);
Section 12, lots 13, 14, lot 15 (W¹/₂, SE ¹/₄);
Section 13, lots 1 (SW¹/₄), lots 2-8, 11-14;
Section 14, lots 1, 8 (E¹/₂);
Section 24, lots 1-3.
Containing 921.6 acres more or less

The surface estate overlying the Federal coal is privately owned.

Selected Tracts

East Burn tract #1

Township 42 North, Range 69 West, 6th PM

Sec. 18: Lot 13(S½);

Sec. 19: Lots 6 (S½), 7, 9, 11 (NW¼), 12.

Containing 170.68 acres, more or less.

East Burn tract #2

Township 42 North, Range 69 West, 6th PM

Sec. 19: Lot 15;

Sec. 29: Lot 4 (W½);

Sec. 30: Lots 5-7.

Containing 184.47 acres, more or less

East Burn tract #3

Township 42 North, Range 69 West, 6th PM

Sec. 29: Lots 5, 12, 13, 14 (SW¼);

Sec. 32: Lots 3 (W½), 4, 5 (N½).

Containing 214.798 acres, more or less

East Burn tract #4

Township 41 North, Range 69 West, 6th PM

Sec. 5: Lots 8, 9, 16.

Containing 123.50 acres, more or less.

The other two selected tracts (South Spur #5 & #6) are located on private surface and are outside the scope of this decision.

MITIGATION, COMPLIANCE AND MONITORING

The standard coal lease stipulations addressing compliance with basic requirements of the environmental statutes will be attached to the new Federal coal leases when the exchange is concluded. Consistent with the EA, the applicable BLM Special Stipulations regarding cultural resources, paleontological resources, threatened and endangered species, multiple mineral development, oil and gas/coal resources, resource recovery and protection, and public land survey protection will be added to the coal leases. The existing mitigation measures specific to the current mine plan will be amended to include mitigation measures specific to mining the selected tracts when the current mining permit is revised.

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. Approval of a mining and reclamation plan revision must be obtained prior to mining coal on the tracts. Mitigation measures and monitoring plans specific to the approved mining and reclamation plan are attached as conditions on all currently approved mining permits, and will be attached to any mining and reclamation plan revision or new mining and reclamation plan before the tracts are mined.

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 mining and reclamation plan revision prior to its approval by Wyoming Department of Environmental Quality and the Department of the Interior to ensure that the revised plan is in compliance with the leasing stipulations, and that it meets the requirements of the Mineral Leasing Act. The revised mining and reclamation plan must be approved before mining can begin on the selected tracts.

RATIONALE FOR MY DECISION

Based, in large part, on the issues identified and analyzed in the EA, and the possible beneficial and adverse effects to the resources, I have decided to approve Alternative 1, the proposed action. Alternative 1 allows the BLM to exchange the coal lease on the GMDX for the tracts identified in the proposed action. It has also been shown to be consistent and in compliance with Grassland Plan Management Direction for Management Area 8.4 Mineral Production and Development, and other applicable laws, regulations and policies.

My decision meets the requirements of the National Environmental Policy Act (NEPA) by responding to the Purpose and Need, and responding to the issues identified in the analysis process. A primary goal of the National Energy Policy Act is to add energy supplies from diverse sources, including domestic oil, gas, and coal, as well as hydropower and nuclear power. The Forest Service and BLM recognize 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 Forest Service and BLM coal leasing programs under the authority of the MLA, as well as FLPMA and FCLAA. The decision to offer the selected tracts of federal coal resources, in response to the coal lease exchange application received in July 2003, is also in conformance with BLM land use planning decisions. Issuance of new coal leases will avoid a potential bypass situation for the coal included in the tracts and fulfills the government's obligation to exchange leases to protect Alluvial Valley Floors significant to agriculture.

Mining the federal coal in the proposed tracts may affect, but is not likely to adversely affect bald eagles and Ute's ladies tresses or their habitats and will have no effect on black-footed ferrets. (EA pages 4-9 to 4-11 and Appendix D)

The implementation of this project may impact individuals but is not likely to contribute to a trend towards federal listing for the following FS R2 Sensitive Species: Northern leopard frog, Baird's sparrow, Brewer's sparrow, Burrowing owl, Ferruginous hawk, Greater sage grouse, Loggerhead shrike, Long-billed curlew, Mountain plover, Sage sparrow, Sage thrasher, black-tailed prairie dog, Fringed myotis, swift fox, Townsend's big-eared bat, Northern harrier, upland sandpiper and Barr's Milkvetch. The project will have no effect on Cassin's sparrow, grasshopper sparrow, short-eared owl, McCown's Longspur, yellow-billed cuckoo, plains minnow, sturgeon chub, or finescale dace.(EA Appendix D)

The implementation of the project will not affect the viability of the population across the planning unit for the Management Indicator Species the Greater Sage Grouse. (EA Appendix D)

No cultural resources were found on NFS Lands. Therefore, the implementation of this project will not impact any cultural resources on NFS lands. (EA page 4-12)

No unique or significant paleontological resources have been identified on the selected tracts, and the likelihood of encountering paleontological resources is small. Therefore, there will be no impact on paleontological resources. (EA page 4-12)

The economic stability of local communities will benefit by the extended mine life of 0.6 to 1.6 years. (EA page 4-14 to 4-15)

PUBLIC INVOLVEMENT

The GMDX application was initially presented at the 2005 RCT meeting in Gillette, WY. The RCT recommended that the BLM process the exchange application. Notices of scoping were mailed to Federal, State, and local government agencies, conservation groups, commodity groups, and individuals who could be impacted by this exchange application in May 2005. BLM received seven written comments that were then addressed in the Draft Environmental Assessment (DEA). A Notice of Availability of the DEA and Notice of Public Hearing were published on March 22, 2006 in the Federal Register. Additional notices were published in the Gillette and Douglas newspapers announcing the Public Hearing. A Public Hearing was held on April 11, 2006 in Gillette, WY. No comments were received at the Public Hearing. Two comments were received during the 30 day DEA comment period ending April 21, 2006. Neither comment required additional analysis. The EA was finalized on April 27, 2006 and a notice was mailed to all affected parties on April 28, 2006.

ALTERNATIVES ANALYZED

The EA analyzes eight identified tracts located at three different mines.

Proposed Action; Exchange One or More of the Identified tracts

Under the selected alternative, six of the eight tracts that were identified through the exchange process will be exchanged for the GMDX tract. Of the six tracts under the selected alternative, four are located on NFS administered surface and two are located on private surface. The two tracts on private surface is outside the scope of this decision. The six tracts to be exchanged are all non-competitive in nature, are all isolated between currently leased coal and the coal burn line and all will be largely disturbed by currently permitted mining activities at the North Antelope / Rochelle Mine. The proposed action assumes that the coal in the selected tracts will be mined, processed, and sold by the applicant's North Antelope / Rochelle Mine or the School Creek Mine.

No Action Alternative

Under this alternative, the GMDX application would be rejected as proposed, and the identified tracts would be rejected for the purpose of the exchange. If the GMDX application is rejected, the applicant can propose new tracts to be considered for exchange and the exchange process would begin again. Mining activity at the adjacent North Antelope / Rochelle Mine has already been permitted will continue, and the majority of the surface of the selected tracts will be disturbed to recover all of the coal in the existing adjacent Federal coal leases due to its proximity to the existing federal leases and the need to use these lands for ancillary facilities.

Rejection of this exchange application at this time would not, however, preclude subsequent lease applications for all or part of the lands included in the selected tracts although some of the coal in the selected tracts may be bypassed in the interim.

FINDINGS REQUIRED BY OTHER LAWS

The decision to lease the tracts identified in the proposed action is consistent with the intent of the long term goals and objectives listed on Chapter 1 pages 1-1 to 1-31 of the Grassland Plan. The project is designed to conform with Grassland Plan standards and incorporates appropriate guidelines for Mineral and Energy Resources (Chapter 1, page 1-11, Section D), Hilight Bill Geographic Area (Chapter 2, page 1-21), and 8.4-Mineral Production and Development Management Area Direction (Chapter 3, page 3-26) of the Thunder Basin National Grassland Land and Resource Management Plan of 2002.

To the best of my knowledge, this decision complies with all applicable laws and regulations. In the following, I have summarized the association of my decision to some pertinent legal requirements.

Executive Order 13212 of May 18, 2001. This Order called the federal agencies to expedite their review of permits for energy-related projects while maintaining safety, public health, and environmental protections. My decision is consistent with this Order.

National Forest Management Act of 1976: The Revised Grassland Plan was approved in 2002, as

required by this Act. This long-range land and resource management plan provides guidance for all resource management activities in the Grassland. The National Forest Management Act requires all projects and activities to be consistent with the Forest (Grassland) Plan. The Grassland Plan has been reviewed in consideration of this project (EA, Section 1.4). This decision is consistent with the Grassland Plan.

Mining and Minerals Policy Act of 1970. This Act declared it would be the continuing policy of the federal government and in the national interest to foster and encourage private enterprise in the development of economically sound and stable domestic mining industries, and the orderly and economic development of domestic mineral resources. This decision is consistent with this Act.

Mineral Leasing Act of 1920, as Amended by the Federal Coal Leasing Amendments Act of 1975. This Act, as amended, authorizes the federal agencies to lease coal reserves and prescribe conditions for protection of non-coal resources. It requires the BLM to secure consent from the surface management agency prior to leasing federal coal lands. This decision is consistent with this Act.

National Historic Preservation Act and American Indian Religious Freedom Act: This decision complies with the provisions of these Acts. Native American interests were consulted during this project.

Endangered Species Act: Compliance with this Act is addressed on page 4-9 to 4-11 of the EA.

National Environmental Policy Act: The documentation for this project supports compliance with this Act.

FINDING OF NO SIGNIFICANT IMPACT

I have considered both the beneficial and potential adverse effects of Alternative 1. Based on my experience with other coal lease projects in the same vicinity and the results of the site-specific environmental analysis and after a review of the EA and the project analysis file, I have determined that the effect(s) of implementing this alternative will be limited in scope and intensity. Any effects that may occur will be within an acceptable range and will, in and of themselves, or by using the appropriate design criteria contained in this decision, result in no significant adverse environmental impact(s), either individually or cumulatively, to the physical or biological components of the environment, as defined in 40 CFR 1508.27.

Based on my review of the Environmental Assessment, including appendices and supporting documents contained in the NEPA project file, it is my conclusion that Alternative 1, is not a major Federal action that will significantly effect the quality of the human environment as defined at 40 CFR 1508.27. Therefore, an environmental impact statement will not be prepared. This finding is based on the following factors:

1. Both beneficial and adverse effects have been considered and this action will not have a significant adverse impact on the quality of the human environment. The *context* of this

project is regional and local to the Powder River Basin and the Thunder Basin National Grassland and Campbell County, Wyoming with environmental implications for the immediate/local area, only.

2. I have concluded that public health and safety will not be adversely affected.
3. This project area does not involve any characteristics or circumstances in the geographic area that are unique, such as proximity to heritage resources, park lands, prime farmlands, wetlands, wild and scenic rivers or ecologically critical areas.
4. This is similar to other Coal lease projects that have occurred on the Thunder Basin National Grassland. There are no scientific disputes among professional, resource management specialists over the likely effects of this project on the quality of the physical, biological and human environments.
5. This action does not involve any *unique* or *unknown risks* to the human environment. It is similar to past actions that have occurred on the Thunder Basin National Grassland. The probable effects and risks are well understood.
6. Neither the actions planned nor this decision establishes a precedent for future actions with significant effects. Every proposed coal lease project must be considered and evaluated on its individual merit; therefore, I have concluded that this decision does not represent a decision in principle about any future action.
7. There are no known significant local cumulative effects between this project and other projects implemented or planned on areas separated from the affected area of this project. This action, as related to past, other present and foreseeable future actions addressed in the Cumulative Effects section of the EA, will not individually or cumulatively result in significant adverse impacts to the human or biological environment. (EA Chapter 4)
8. The action will not adversely affect any historic sites now listed or eligible for listing on the National Register of Historic Places, nor will it cause the loss or destruction of any other significant scientific, cultural, heritage, historic, or prehistoric or paleontological resource. This finding is based upon the results of site-specific cultural and paleontological resource surveys conducted in the project area as part of the project Plan of Development and consultation with the Wyoming State Historic Preservation Officer.
9. This action may affect but is not likely to adversely affect Bald Eagle or Ute's Ladies Tresses and will have no effect on Black-footed ferrets and will not adversely affect their habitat, or sensitive plant or animal species, critical habitats, or unique natural communities. (EA-Appendix D)
10. This action does not constitute nor will it lead to any violation of any Federal, State or local law, ordinance or requirement imposed for the protection of the environment.

ADMINISTRATIVE APPEAL OPPORTUNITIES

This decision is subject to administrative review pursuant to Federal regulations at 36 CFR 215.11. Appeals (including attachments) must be in writing and filed (regular mail, fax, e-mail, hand-delivery, express delivery or messenger service) with the Appeal Deciding Officer (§215.8) within 45 days following the date of publication of a legal notice of this decision in the Laramie Boomerang. The publication date of the legal notice in the newspaper of record is the exclusive means for calculating the time to file and appeal (§215.15(a)). Those wishing to appeal should not rely upon dates or timeframe information provided by any other source. Pursuant to 36 CFR 215.13(b), only those individuals or organizations who submitted substantive comments during the comment period may file an appeal.

The formats that our systems will accept for electronic comments are: as an email message, plain text (.txt), rich format (.rtf), or word. For electronically mailed comments or appeals, the sender should normally receive an automated electronic acknowledgment from the agency as confirmation of receipt. If the sender does not receive an automated acknowledgment of the receipt of the comments, it is the sender's responsibility to ensure timely receipt by other means.

Where to File an Appeal

USDA, Forest Service, Region 2

Attn: Appeal Deciding Officer

POB 25127

Lakewood CO 80225-25127

In person: 740 Simms Street, Golden, CO. Office hours are 7:30 a.m. to 4:30 p.m. Monday through Friday MT, except holidays.

Fax: 303-275-5134

Email: appeals-rocky-mountain-regional-office@fs.fed.us

It is an appellant's responsibility to provide sufficient activity-specific evidence and rationale, focusing on the decision, to show why the Responsible Official's decision should be reversed. Notices of Appeal that do not meet the requirements of 36 CFR 215.14 will be dismissed.

IMPLEMENTATION

Pursuant to 36 CFR 215.9(a), if no appeal is filed, implementation of this decision may occur on, but not before, the fifth business day following the close of the appeal filing period. If an appeal is received, implementation may occur on, but not before, the 15th business day following the date of appeal disposition.

The BLM lease cannot be issued until the Forest Service appeals procedures have been observed. The project will be implemented after the BLM has issued a decision, and after a 30-day appeal period for the BLM decision has elapsed or when the Forest Service Administrative Appeal procedures have been completed, whichever is the latter.

CONTACT PERSON

For additional information concerning this decision or the Forest Service Appeal process, contact Misty Hays, Deputy District Ranger, Douglas Ranger District, 2250 E. Richards St., Douglas, WY 82633, 307-358-4690, e-mail mahays@fs.fed.us.

Mary H. Peterson

May 12, 2006

Mary H. Peterson
Forest Supervisor
Medicine Bow-Routt National Forests and
Thunder Basin National Grassland

Date

Appendix A
NOTICE FOR LANDS OF THE NATIONAL FOREST SYSTEM UNDER
JURISDICTION OF THE DEPARTMENT OF AGRICULTURE

The permittee must comply with all the rules and regulations of the Secretary of the Agriculture set forth in 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 the 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
2250 East Richards
Douglas, WY 82633
Telephone: 307-358-4690

who is the authorized representative of the Secretary of Agriculture.

NOTICE

CULTURAL AND PALEONTOLOGICAL RESOURCES – The Forest Service (FS) is responsible for assuring that the leased lands are examined to determine if cultural and paleontological resources are present and to specify mitigation measures. Prior to undertaking the 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 or paleontological resource inventory is required. If a survey is required, then:
2. Engage the services of a cultural resource specialist and/or paleontologist acceptable to the FS to conduct a cultural resource or paleontological inventory of the area of proposed surface disturbance. The operator may elect to inventory an area larger than the area of the proposed disturbance to cover possible site relocation, which may result from environmental to the FS for review and approval at the time of 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 paleontological resource of values. Mitigation may include relocation of proposed facilities, testing, salvage, and recordation of 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 discovery of any antiquities or other objects of historic or scientific interest, including but not limited to, historic or prehistoric ruins, fossils, or artifacts as the result of any operation conducted within the lease boundaries on Forest System Land shall immediately be brought to the attention of the District Ranger. The permittee will cease operations in that area until authorized to proceed by the District Ranger.

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 of 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 that may occur in the area.

Signature of Licensee/Permittee/Lessee