

**U.S. DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
RECORD OF DECISION
THUNDERCLOUD FEDERAL COAL LEASE APPLICATION
WYW136458
CAMPBELL COUNTY, WYOMING**

INTRODUCTION

Kerr-McGee Coal Corporation filed coal lease application WYW136458 for a maintenance coal tract for the Jacobs Ranch Mine with the Bureau of Land Management (BLM) on April 14, 1995. The Thundercloud Tract, as applied for, included approximately 3,396 acres and contained an estimated 427 million tons of in-place coal. The Jacobs Ranch Mine has a permit to conduct surface coal mining operations approved by the Wyoming Department of Environmental Quality, Land Quality Division (WDEQ/LQD) and the Department of the Interior. 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 35 million tons of coal per year. The tract was applied for under the lease-by-application (LBA) regulations [43 Code of Federal Regulations (CFR) 3425]. Kerr-McGee Coal Corporation previously applied for Federal coal using the LBA process, was the successful high bidder when a competitive lease sale was held, and was issued a maintenance lease adjacent to the Jacobs Ranch Mine in 1992. Kerr-McGee Coal Corporation recently announced that the Jacobs Ranch Mine is being sold to Kennecott Energy and Coal Company.

Under the LBA process, maintenance tracts are nominated for leasing by companies with adjacent existing mines. To process an LBA, the BLM must evaluate the quantity, quality, maximum economic recovery, and fair market value (FMV) of the Federal coal and fulfill the requirements of the National Environmental Policy Act of 1969 (NEPA) by evaluating the environmental impacts of leasing and mining the Federal coal. The impacts of leasing and mining the Powder River LBA Tract (which was offered for competitive sale on June 30, 1998) and the Thundercloud LBA Tract were jointly analyzed in an environmental impact statement (EIS). The U.S. Forest Service (USFS) and the Office of Surface Mining Reclamation and Enforcement were both cooperating agencies on the EIS.

The LBA process is an open, public, competitive leasing process, by law and regulation, and bidding is not restricted to the applicant. The Thundercloud LBA Tract was applied for as a maintenance tract for the Jacobs Ranch Mine, and the alternatives analyzed in detail in the draft and final EIS documents assume that the applicant will be the successful bidder if a competitive sale is held. The Black Thunder Mine, recently acquired by Arch Western Resources, LLC, is also in a position to mine the Thundercloud LBA Tract as a maintenance lease. The Thundercloud LBA Tract could also potentially be acquired by an operator interested in opening a new mine in the Powder River Basin, because the Federal coal it includes is potentially attractive to someone interested in opening a new mine in the southern part of the Wyoming Powder River Basin and the tract is accessible to existing railroad lines and highways, which would decrease the cost of developing a new mine.

Since decertification of the Powder River Federal Coal Region in 1990, the BLM has issued seven

federal coal leases in Campbell and Converse Counties, Wyoming. These leases include approximately 11,887 acres and 1.421 billion tons of coal. Six of the new leases were issued to existing mines (Jacobs Ranch, Black Thunder, North Antelope/Rochelle, Eagle Butte, Antelope, and North Rochelle) for the purpose of extending their mine life. One lease (West Rocky Butte), adjacent to the undeveloped Rocky Butte lease, was issued to Northwestern Resources Company. They proposed opening a new mine, but recently sold the Rocky Butte and West Rocky Butte Federal coal leases to Caballo Coal Company, a subsidiary of Peabody Coal Company which operates the adjacent Caballo Mine. There are currently four pending maintenance lease applications in the Wyoming portion of the Powder River Basin: the Powder River LBA Tract, with an estimated 532 million tons of minable coal (for which issuance is pending after a successful bid was received on June 30, 1998) and the Thundercloud, Horse Creek and Belle Ayr LBA Tracts, which represent approximately 984 million tons of coal. One lease application for approximately 675 million tons of coal representing a potential new mine (New Keeline) was rejected without prejudice by the BLM Wyoming State Director on June 13, 1997. The decision to reject the New Keeline lease application is under appeal.

The Jacobs Ranch, Black Thunder, North Rochelle, Rochelle, North Antelope, and Antelope Mines form a contiguous group of mines located east and southeast of Wright, in Campbell and Converse Counties, Wyoming. Since decertification, there have been eight LBA applications from mines in this group, and five maintenance federal coal leases have been issued. Three of the four pending maintenance applications and the proposed New Keeline mine are associated with this group of mines. In addition, North American Power Group (NAPG) has proposed building a power plant near the Black Thunder Mine, and ENCOAL Corporation has proposed building a Liquids from Coal (LFC) coal beneficiation plant and cogeneration power plant adjacent to the North Rochelle Mine. Construction was expected to begin in 1997 on both projects, however, it has not yet started on either. NAPG recently announced that they had acquired the final permit needed to build their proposed Two Elk Power Plant. ENCOAL announced on August 29, 1997, that a contract for construction of their facilities had been canceled. Other potential projects in this general area include a proposal to construct a new railroad line into the Powder River Basin by Dakota, Minnesota & Eastern Railroad (DM&E), who plan to begin construction on this project in 1999; and potential drilling and production of coal bed methane wells.

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 Jacobs Ranch Mine is included in the impact analyses in all four 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 analyses in the 1981 and 1984 documents. The 1997 production from the mines in Converse and Campbell Counties was less than the production predicted for 1990 from those counties in the 1981 and 1984 regional EIS's.

The proposed ENCOAL LFC plant, the two proposed power plants, the proposed DM&E railroad line, and the proposed coal bed methane development were not anticipated in the BLM's regional EIS's. Their development is independent of the issuance of a lease for the Thundercloud LBA Tract, but there will potentially be some overlap between the impacts of mining the tract and the impacts of building the needed facilities and operating these projects, if they are constructed and/or developed as proposed.

DECISION

My decision, as BLM Wyoming State Director, is to issue, with U.S. Forest Service consent, a lease for the Thundercloud Federal coal tract WYW136458 to the successful qualified high bidder if the highest bid received at a competitive lease sale meets or exceeds the fair market value (FMV) of the tract as determined by the BLM and if all other leasing requirements are met. The competitive lease sale will be held under the regulations at 43 CFR 3425, Leasing on Application. Under the selected alternative (Alternative 2) federal coal tract WYW136458 includes 3,545.503 acres more or less, and contains approximately 432 million tons of in-place Federal coal resources in Campbell County, Wyoming. This decision is consistent with the BLM Buffalo Resource Area Resource Management Plan, and the Medicine Bow National Forest and Thunder Basin National Grassland Land and Resource Management Plan. This decision incorporates by reference the standard coal lease stipulations addressing compliance with basic requirements of the environmental statutes and the attached BLM and US Forest Service special stipulations.

REASONS FOR THE DECISION

The decision to offer 3,545.503 acres containing approximately 432 million tons of in-place coal resources, in response to the coal lease application received on April 14, 1995, is in conformance with the BLM and USFS land use plans covering this area (the Buffalo Resource Area Resource Management Plan and the Medicine Bow National Forest and Thunder Basin National Grassland Land and Resource Management Plan, respectively). Both were approved in 1985.

The selected alternative, Alternative 2 of the Final EIS for the Powder River Coal Lease Application and Thundercloud Coal Lease Application, proposes holding separate competitive lease sales for the Powder River and Thundercloud LBA Tracts, as amended by the BLM. This Record of Decision is for the Thundercloud LBA Tract. A Record of Decision for the Powder River LBA Tract was signed by the BLM Wyoming State Director on April 20, 1998, after the USFS Regional Forester consented to the sale on April 10, 1998. Alternative 2, the BLM-proposed tract configuration, was selected in preference to the applied-for tract configuration (Proposed Action) to avoid future bypass of unleased Federal coal adjacent to the tract. Alternative 2 includes the assumption that the owner of the Jacobs Ranch Mine, the applicant of record for the Thundercloud LBA Tract, will be the successful bidder if a competitive coal lease sale is held. If the tract is mined as a maintenance lease by the Jacobs Ranch Mine, the environmental impacts that will occur as a result of the currently approved mining activity at that mine will be extended onto the LBA tract and the duration of mining-related impacts associated with the mine will be extended for approximately 11 years at the currently approved average mining rate of 35 million tons per year. If the proposed NAPG and ENCOAL power plants, the ENCOAL LFC facilities, and the DM&E rail line are constructed south and east of the Jacobs Ranch Mine and coal bed methane is developed north and west of the mine, the impacts of construction, power generation, coal beneficiation, coal bed methane production, and mining at the Jacobs Ranch Mine will potentially overlap. This will occur with or without the issuance of a lease for the Thundercloud LBA Tract, but will occur over a larger area for a longer period of time if the Thundercloud Tract is leased. Issuance of a lease will add to Federal and State royalty and tax revenues in a time of falling revenue from other sources, and will help maintain a stable economy in this area.

PUBLIC INVOLVEMENT

The BLM published a notice of receipt of this lease application in the Federal Register on December 4, 1995 and March 12, 1996. Copies of this notice were sent to voting and non-voting members of the Powder River Regional Coal Team (PRRCT), including the governors of Wyoming and Montana, the Northern Cheyenne and Crow tribes, the USFS, the Office of Surface Mining, the U.S. Fish and Wildlife Service, the National Park Service, the U.S. Geological Survey, and others.

The PRRCT reviewed coal lease application WYW136458 at their public meeting on April 23, 1996, in Cheyenne, Wyoming. At that meeting, the PRRCT recommended that the BLM process the application. A Notice of Intent to prepare a joint Environmental Impact Statement on the Powder River and Thundercloud coal lease applications was published in the Federal Register on December 9, 1996. More than 300 notices of scoping were mailed to federal, state and local government agencies, conservation groups, commodity groups, and individuals who could be impacted by this lease application in June 1996. The mailing list was jointly developed by BLM, USFS, Powder River Coal Company, and Kerr-McGee Coal Corporation. A public scoping meeting was held at the Holiday Inn in Gillette, Wyoming on June 20, 1996.

The BLM draft EIS was mailed to the public in August 1997. A Notice of Availability of the draft EIS was published by the Environmental Protection Agency (EPA) in the Federal Register on August 22, 1997. A Notice of Availability of the draft EIS and notice of Public Hearing was published by BLM in the Federal Register on August 29, 1997. A formal public hearing was held on October 8, 1997, at the Holiday Inn in Gillette, Wyoming, to solicit public comment on the draft EIS, the proposed sale, and the FMV and maximum economic recovery (MER) of coal in the proposed tract. The comment period on the draft EIS ended on October 28, 1997.

The BLM final EIS was mailed to the public on February 11 and 12, 1998. A Federal Register Notice announcing the availability of the final EIS was published by the EPA on February 20, 1998, and by BLM on February 13, 1998. The availability period for the final EIS ended on March 23, 1998.

Nine written comments were received during the scoping period on the Powder River and Thundercloud lease applications. These comments are on file in the Casper and Cheyenne offices of the BLM. Ten written comments were received on the draft EIS, and these were included, with written responses, in the final EIS. The transcript of the formal hearing is on file in the Casper and Cheyenne Offices of the BLM. Six written comments were received on the final EIS. All comments that were received were considered in the preparation of the draft and final EIS's, and in this Record of Decision.

ALTERNATIVES ANALYZED IN DETAIL

Proposed Action: Hold a Competitive Sale of Federal Coal Lands as Applied For

Under the Proposed Action, the lands that were applied for in the Powder River and Thundercloud LBA Tracts would be offered for lease at separate competitive sales. The tract that Kerr-McGee Coal Corporation applied for included approximately 3,396 acres containing approximately 427

million tons of in-place Federal coal (see Figure 1). The proposed action assumed that the applicant would be the successful bidder and that the coal would be mined, processed, and sold by the applicant's Jacobs Ranch Mine.

Alternative 1: No Action Alternative

Under this alternative, the Powder River and Thundercloud lease applications would be rejected, and neither tract would be offered for sale at this time. If the Thundercloud application is rejected at this time, permitted mining activity at the adjacent Jacobs Ranch and Black Thunder Mines would continue, and portions of the Thundercloud Tract adjacent to the Jacobs Ranch Mine would have to be disturbed to recover all of the coal in the existing Jacobs Ranch Federal coal leases. This alternative is the environmentally preferable alternative if it is assumed these two tracts will never be leased because, in that case, coal removal and the associated disturbance would never occur on either tract.

Rejection of the lease applications at this time would not, however, preclude subsequent lease applications for the lands in these two tracts. If the Thundercloud LBA Tract is leased in the future, the environmental impacts of mining it at that time could be similar to or greater than the impacts of the selected alternative, depending on who acquired the tract and whether it was mined as a maintenance lease for an existing mine or as a new mine.

Alternative 2 (Selected Alternative): Hold a Competitive Sale of Federal Coal Lands as Amended by BLM

Under the Selected Alternative (Alternative 2), the Powder River and Thundercloud LBA tracts with amended boundaries are being offered for lease at separate competitive sales. Under this alternative, the BLM added about 149.59 acres to the southern part of the Thundercloud LBA Tract, based on an evaluation of the available geological information and the potential that adjacent unleased federal coal will be bypassed if the tract is leased as applied for. The resulting tract includes approximately 3,545.503 acres and an estimated 432 million tons of Federal coal (See Figure 1). A 40-acre tract of privately owned coal containing approximately 5 million tons of coal is located inside the tract boundaries, but this coal is not included in the tract that will be leased by the Federal government. This alternative assumes that the applicant will be the successful bidder on the Thundercloud LBA Tract and that the coal will be mined, processed and sold by the Jacobs Ranch Mine. As stated previously, however, the Thundercloud LBA Tract could be mined as a maintenance tract by the existing Black Thunder Mine and will be offered for competitive sale. If Thunder Basin Coal Company acquires the tract as a maintenance tract for the Black Thunder Mine, the rate of coal production and the mining sequence would probably change from what is analyzed in the BLM EIS and different equipment and facilities might be used, but the area of disturbance would be the same and the general impacts of mining the tract would be similar to the impacts that are predicted to occur if the applicant acquires and mines the tract.

This alternative is the environmentally preferable alternative if it is assumed that both the Powder River and Thundercloud LBA tracts will be leased and mined in the future if they are not leased as maintenance tracts at this time. If these two tracts are mined, it would be environmentally preferable to lease them as configured under this alternative and to mine and reclaim them as maintenance leases in logical sequence with the ongoing mining and reclamation at the adjacent coal mines.

ALTERNATIVES CONSIDERED BUT NOT ANALYZED IN DETAIL

Alternative 3

Under Alternative 3, BLM would hold two separate competitive coal lease sales and issue separate leases to the successful bidders. This alternative assumes that one or both of the successful bidders would not be an applicant and that one or both LBA tracts would be developed as a new stand-alone mine. This alternative was considered because both tracts include enough reserves to be attract a company interested in opening a new mine. This alternative was not analyzed in detail because the current economics of mining in the Powder River Federal Coal Region appear to make construction of a new mine economically unfeasible. The applicant was the successful and only bidder on the Powder River LBA Tract. If a qualified bidder interested in opening a new mine were to submit the highest bid that meets the FMV of the Thundercloud LBA Tract as determined by the BLM, then that bidder could potentially acquire mining facilities from one of the adjacent mines or could construct new mining facilities. If the successful bidder acquires existing facilities, the impacts of mining the coal in the Thundercloud LBA tract under this alternative would probably be similar to the impacts of mining the tract under the Proposed Action or the Selected Alternative. If new mining facilities are constructed, the environmental impacts of mining the tract under this alternative would be expected to be greater than for the Proposed Action, the Selected Alternative, or the No Action Alternative. In either case, approval of a mining and reclamation plan for WYW136458 would be necessary before the tract could be mined, and the NEPA compliance documents would be reviewed and supplemented if necessary prior to approval of the mining and reclamation plan.

Alternative 4

Under Alternative 4, sale of both the Powder River and Thundercloud LBA Tracts would be postponed until coal prices increase in the Powder River Basin. This alternative considered postponing the lease sale until coal prices rise in order to potentially increase the value of the tract, and thus the return to the public for the use of its resources. It was not considered in detail because of the uncertainty of rising coal prices and the uncertainty of their effect on the value of the tract. If coal prices do increase after the tract is sold, royalty income to the federal and state governments will also increase, because royalty is a percentage of the money received for the coal when it is sold. The impacts of this alternative could be similar to any of the alternatives analyzed in detail, depending on how long the sale was postponed and which tract configuration was selected at the time of the sale.

IMPACTS OF THE PROPOSED ACTION, ALTERNATIVE 1 AND ALTERNATIVE 2

The potential impacts of the Proposed Action, Alternative 1, and Alternative 2 are summarized in Table 1. Several issues that were brought in comments on or related to the draft and final EIS are discussed in more detail below.

Recreational Access

Recreational access is limited in the Powder River Basin, primarily due to the fact that land ownership in the basin is largely private and public lands are scattered and not always accessible. Leasing and mining coal on accessible public land impacts recreational access because it decreases the amount of public land available for recreational purposes during the period of coal

Table 1. Summary Comparison of Magnitude¹ and Duration of Direct and Indirect Impacts for the Proposed Action, Alternative 2, and the No-Action Alternative for the Powder River and Thundercloud LBA Tracts²

¹ Refer to Section 4.0 and 4.1 for a discussion on magnitude of impacts.

² All impacts are assumed to be adverse unless noted otherwise.

<i>DESCRIPTION OF POTENTIAL IMPACT BY RESOURCE</i>	<i>MAGNITUDE AND DURATION OF IMPACT</i>	
RESOURCE NAME	NO ACTION ALTERNATIVE	PROPOSED ACTION & ALTERNATIVE 2
TOPOGRAPHY & PHYSIOGRAPHY PERMANENT TOPOGRAPHIC MODERATION could result in: Microhabitat reduction Habitat diversity reduction Reduction in water runoff and peak flows Increased precipitation infiltration Wildlife carrying capacity reduction Reduction in erosion Enhanced vegetative productivity Potential acceleration of groundwater recharge	Moderate, long term on existing mine areas Moderate, possibly short term on existing mine areas Moderate, long term on existing mine areas Moderate, beneficial, long term on existing mine areas Moderate, long term on existing mine areas	Same as No Action on expanded mine areas Same as No Action on expanded mine areas
GEOLOGY AND MINERALS SUBSURFACE changes would result in: Removal of coal Removal and replacement of topsoil and overburden Physical characteristic alterations in geology Loss of coal bed methane	Moderate, short term on existing mine areas Moderate, long term on existing mine areas Moderate, long term on existing mine areas Moderate, permanent on existing mine areas	Same as No Action on expanded mine areas Same as No Action on expanded mine areas Same as No Action on expanded mine areas Same as No Action on expanded mine areas
SOILS CHANGES IN PHYSICAL PROPERTIES would include: Increased near-surface bulk density More uniformity in soil type, thickness, and texture Increased uniformity in mixed soils (e.g., texture) Decreased soil loss due to topographic modification	Moderate, long term on existing mine areas Moderate, beneficial, long term on existing mine areas Moderate, beneficial, long term on existing mine areas Moderate, beneficial, long term on existing mine areas	Same as No Action on expanded mine areas Same as No Action on expanded mine areas Same as No Action on expanded mine areas Same as No Action on expanded mine areas
CHANGES IN CHEMICAL PROPERTIES would include: Uniform soil nutrient distribution	Moderate, beneficial, long term on existing mine areas	Same as No Action on expanded mine areas
CHANGES IN BIOLOGICAL PROPERTIES would include: Organic matter reduction Microorganism population reduction Existing plant habitat reduction in soils stockpiled before placement	Moderate, long term on existing mine areas Moderate, long term on existing mine areas Moderate, long term on existing mine areas	Same as No Action on expanded mine areas Same as No Action on expanded mine areas Same as No Action on expanded mine areas
AIR QUALITY IMPACTS ASSOCIATED WITH MINING OPERATIONS would include: Elevated concentration levels of TSP Elevated concentrations of gaseous emissions	Negligible, short term on existing mine areas Negligible, short term on existing mine areas	Same as No Action on expanded mine areas Moderate short term on expanded mine areas

Table 1. (cont'd)

DESCRIPTION OF POTENTIAL IMPACT BY RESOURCE	MAGNITUDE AND DURATION OF IMPACT	
RESOURCE NAME	NO ACTION ALTERNATIVE	PROPOSED ACTION & ALTERNATIVE 2
WATER RESOURCES		
<u>SURFACE WATER</u>		
CHANGES IN RUNOFF CHARACTERISTICS AND SEDIMENT		
DISCHARGE include the following:		
Disruption of surface drainage systems	Moderate, short term on existing mine areas	Same as No Action on expanded mine areas
Increased runoff and erosion rates	Moderate, short term on existing mine areas	Same as No Action on expanded mine areas
Increased infiltration	Moderate, long term on existing mine areas	Same as No Action on expanded mine areas
Reduction in peak flows	Moderate, long term on existing mine areas	Same as No Action on expanded mine areas
<u>GROUNDWATER</u>		
GROUNDWATER RESOURCE IMPACT would include the following:		
Removal of coal and overburden aquifers	Negligible, short term on existing mine areas	Same as No Action on expanded mine areas
Replacement of existing coal and overburden with spoil aquifers	Negligible, long term on existing mine areas	Same as No Action on expanded mine areas
Depressed water levels in aquifers adjacent to mines	Moderate, short term on existing mine areas	Same as No Action on expanded mine areas
Change in hydraulic properties	Negligible, long term on existing mine areas	Same as No Action on expanded mine areas
Change in groundwater quality in backfilled areas	Moderate, long term on existing mine areas	Same as No Action on expanded mine areas
ALLUVIAL VALLEY FLOORS		
While a final determination has not been made by WDEQ/LQD, it is believed that there are no AVF's significant to agriculture on the proposed lease tracts	No impact on existing mine areas	No impact within the expanded mine areas
WETLANDS		
Removal of all existing wetlands	Wetlands on existing mine areas would be mined and reclaimed	Same as No Action on expanded mine areas
VEGETATION		
PROGRESSIVE REDUCTION IN NATIVE VEGETATION would result in:		
Increased erosion	Moderate, short term on existing mine areas	Same as No Action on expanded mine areas
Wildlife and livestock habitat loss	Moderate, short term on existing mine areas	Same as No Action on expanded mine areas
Wildlife habitat carrying capacity loss	Moderate, long term on existing mine areas	Same as No Action on expanded mine areas
AFTER RECLAMATION the following could result:		
Changes in surface water networks	Negligible, long term on existing mine areas	Same as No Action on expanded mine areas
Reduction in vegetation diversity	Negligible, long term on existing mine areas	Same as No Action on expanded mine areas
Reduction in shrub density	Negligible, long term on existing mine areas	Same as No Action on expanded mine areas

Table 1. (cont'd)

DESCRIPTION OF POTENTIAL IMPACT BY RESOURCE	MAGNITUDE AND DURATION OF IMPACT	
RESOURCE NAME	NO ACTION ALTERNATIVE	PROPOSED ACTION & ALTERNATIVE 2
WILDLIFE		
DURING MINING the following could occur:		
Wildlife displacement	Moderate, short term on existing mine areas	Same as No Action on expanded mine areas
Pronghorn passage reduction	Moderate, short term on existing mine areas	Same as No Action on expanded mine areas
Increased mortality rate to small mammals	Moderate, short term on existing mine areas	Same as No Action on expanded mine areas
Temporary displacement of small mammals	Moderate, short term on existing mine areas	Same as No Action on expanded mine areas
Sage grouse habitat removal	Negligible, short term on existing mine areas	Same as No Action on expanded mine areas
Abandonment of raptor nests	Negligible, short term on existing mine areas	Same as No Action on expanded mine areas
Foraging habitat reduction for raptors	Negligible, short term on existing mine areas	Same as No Action on expanded mine areas
Loss of nesting and foraging habitat for MBHFI	Negligible, short term on existing mine areas	Same as No Action on expanded mine areas
Reduction in waterfowl resting and feeding habitat	Negligible, short term on existing mine areas	Same as No Action on expanded mine areas
Loss of songbird foraging habitat	Moderate, short term on existing mine areas	Same as No Action on expanded mine areas
Temporary wildlife habitat loss	Negligible, short term on existing mine areas	Same as No Action on expanded mine areas
Continued road kills by mine-related traffic	Negligible, short term on existing mine areas	Same as No Action on expanded mine areas
THREATENED, ENDANGERED AND CANDIDATE SPECIES		
MINING IMPACTS could result in the following:		
Loss of black-footed ferret colonies	No impacts on existing mine areas	Same as No Action on expanded mine areas
Loss of bald eagle nesting and foraging habitat	Negligible, short term on existing mine areas	Same as No Action on expanded mine areas
Loss of peregrine falcon nesting and foraging habitat	No impact on existing mine areas	Same as No Action on expanded mine areas
Loss of Ute ladies' tresses orchid habitat	Negligible on existing mine areas	Same as No Action on expanded mine areas
Loss of mountain plover habitat	Negligible on existing mine areas	Same as No Action on expanded mine areas
Loss of swift fox habitat	Negligible on existing mine areas	Same as No Action on expanded mine areas
LAND USE AND RECREATION		
ENVIRONMENTAL CONSEQUENCES ON LAND USE would be:		
Reduction of livestock grazing	Moderate, long term on existing mine areas	Same as No Action on expanded mine areas
Loss of wildlife habitat	Moderate, long term on existing mine areas	Same as No Action on expanded mine areas
Curtailment of oil and gas development	Moderate, long term on existing mine areas	Same as No Action on expanded mine areas
Loss of public land available for recreation activities	Moderate, short term on existing mine areas	Same as No Action on expanded mine areas
Loss of coal bed methane reserves	Moderate, permanent on existing mine areas	Same as No Action on expanded mine areas
CULTURAL RESOURCES		
78 sites not eligible or recommended not eligible for NRHP	Impacts to eligible or unevaluated sites are not permitted;	Impacts to eligible or unevaluated sites are not
1 not eligible for NRHP/recommended for avoidance	any site eligible for the NRHP would be avoided or	permitted; any site eligible for the NRHP would
2 unevaluated	mitigated through data recovery	be avoided or mitigated through data recovery
6 eligible for NRHP/4 mitigated, 2 pending mitigation		
Possible increase in vandalism	No impacts on existing mine areas	Negligible on expanded mine areas
Possible increase in unauthorized collecting	No impacts on existing mine areas	Negligible on expanded mine areas
NATIVE AMERICAN CONCERNS	No impact identified on existing mine areas	Potential local impact to medicinal plants in expanded mine areas

Table 1. (cont'd)

DESCRIPTION OF POTENTIAL IMPACT BY RESOURCE	MAGNITUDE AND DURATION OF IMPACT	
RESOURCE NAME	NO ACTION ALTERNATIVE	PROPOSED ACTION & ALTERNATIVE 2
PALEONTOLOGICAL RESOURCES		
Overburden removal could expose fossils for scientific examination	No impact identified on existing mine areas	Same as No Action on expanded mine areas
VISUAL RESOURCES		
EVIDENT IMPACTS DURING MINING include the following:		
Alteration of landscape classified by the USFS as "common"	Negligible, short term on existing mine areas	Same as No Action on expanded mine areas
IMPACTS FOLLOWING RECLAMATION could be:		
Smoother sloped terrain	Negligible, long term on existing mine areas	Same as No Action on expanded mine areas
Reduction in sagebrush density	Negligible, short term on existing mine areas	Same as No Action on expanded mine areas
NOISE		
INCREASED NOISE LEVELS could effect:		
Nearby occupied dwellings	Negligible, short term on existing mine areas	Same as No Action on expanded mine areas
Wildlife in immediate vicinity	Negligible, short term on existing mine areas	Same as No Action on expanded mine areas
TRANSPORTATION FACILITIES		
Increase in duration that coal is shipped on railroads and employees travel on highways by 8-9 years	No impact on existing mine areas	Negligible, short term on expanded mine areas
Relocation of pipelines	No impact on existing mine areas	Negligible, short term on expanded mine areas
Relocation of utility lines	No impact on existing mine areas	Same as No Action on expanded mine areas
SOCIOECONOMICS		
INCREASE IN SOCIOECONOMICS could increase the following:		
Employment (Increase of up to 320 jobs in expanded mine areas is expected)	No impact on existing mine areas	Moderate, beneficial, short term on expanded mine areas
Revenues from royalties and taxes to the state government	No impact on existing mine areas	Moderate, beneficial, short term on expanded mine areas
Revenues from royalties and taxes to the federal government	No impact on existing mine areas	Moderate, beneficial, short term on expanded mine areas
Economic development	No impact on existing mine areas	Moderate, beneficial, long term on expanded mine areas
Population in Campbell and Converse counties	No impact on existing mine areas	Moderate, beneficial, short term on expanded mine areas

mining activity. The USFS has been acting to consolidate public land holdings in the Thunder Basin National Grasslands through exchanges with private land owners. As a result of one of those exchanges, there are currently approximately 160 acres of Federal surface included in the 3,545.503 acre Thundercloud LBA Tract.

Native American Issues

During the Native American Consultation process on the Powder River and Thundercloud LBA Tract applications, the Oglalla Sioux Tribe expressed concern about the potential occurrence of medicinal plants on these two tracts. No specific collecting locations were identified by the tribe on either tract, however, the tribe was sent additional information on the cultural inventories that were conducted on each tract. After discussions of the characteristics of the tracts with a BLM archeologist, the tribe expressed an interest in touring the Powder River LBA Tract to see if the plants of interest were present. BLM, USFS, and Powder River Coal Company have been working with a tribal representative to set up a tour, which is tentatively scheduled for this fall. The tribe filed a letter of appeal with the BLM Wyoming State Office after they received a copy of the Record of Decision for the Powder River Tract. The letter of appeal and the case file have been forwarded to the Interior Board of Land Appeals and the Regional Solicitor has filed a response to the appeal. The tribe did not file a statement of reasons following the original appeal letter.

Coal and Oil and Gas Development Conflicts

The Thundercloud LBA Tract includes several producing wells that are part of the Highlight South (Muddy Sand) Unit, a Federal primary recovery oil and gas unit. Unless oil and gas production ceases before the coal lessee is ready to mine the coal, the coal lessee and the oil and gas operator must reach an agreement that will allow the coal lessee to mine through the wells that are producing before the coal lessee can mine the coal in the tract.

The current Federal regulations provide for the issuance of both Federal oil and gas leases and Federal coal leases on the same lands. Under Coal Management: General, the Federal regulations related to multiple mineral development are as follows:

43 CFR 3400.1(a) "The granting of an exploration license to mine or a lease for the exploration, development, or production of coal deposits shall preclude neither the issuance of prospecting permits or mineral leases for prospecting, development or production of deposits of other minerals in the same land with suitable stipulations for simultaneous operation, nor the allowance of applicable entries, locations, or selections of leased lands with a reservation of the mineral deposits to the United States. "

43 CFR 3400.1(b) "The presence of deposits of other minerals or the issuance of prospecting permits or mineral leases for prospecting, development or production of deposits of other minerals shall not preclude the granting of an exploration license, a license to mine or a lease for the exploration, development or production of coal deposits on the same lands with suitable stipulations for simultaneous operations. "

Under the Onshore Oil and Gas Operations: General, the regulations at 43 CFR 3161.2 state: "The authorized officer is authorized and directed to"....."require that all operations be conducted in a manner which protects other natural resources and the environmental quality, protects life and property and results in the maximum ultimate recovery of oil and gas with minimum waste and with minimum adverse effect on the ultimate recovery of other mineral resources."

The BLM in Wyoming currently attaches stipulations related to multiple mineral development and oil and gas/coal resources to new Federal coal leases when they are issued [see (c) and (d) of the attached BLM Special Stipulations], and these stipulations will be attached to the Thundercloud LBA Tract if it is leased. A multiple mineral development stipulation is also currently attached to all newly issued Federal oil and gas leases in Wyoming and a controlled surface use stipulation is attached to new Federal oil and gas leases in existing coal mining areas in the Wyoming Powder River Basin.

The BLM realizes that some conflicts between Federal lessees or their operators are inevitable when multiple mineral leases are issued for the same lands. Our current guidance for dealing with these conflicts is an August 3, 1992 opinion by the Rocky Mountain Regional Office of the Solicitor related to oil and gas and trona development conflicts in the Green River Basin. In that opinion, the Solicitor states: "In the absence of lease stipulations to the contrary, a development conflict between and gas lessee and a trona lessee must generally be resolved on the basis of the first in time, first in right principle."

When conflicts develop, the BLM encourages Federal lessees to settle them between themselves, based upon such considerations as prior existing rights, maximum economic recovery, resource conservation, relative depths to resource, development method, timing of development, magnitude of capital investment, and duration of project life. Within the limits of its authority and if requested by a lessee, BLM can authorize actions such as oil and gas lease suspensions, mine plan modifications, and the relocation of wells in order to help facilitate these agreements.

MITIGATION, COMPLIANCE AND MONITORING

The standard coal lease stipulations addressing compliance with basic requirements of the environmental statutes will be attached to the federal coal lease if the Thundercloud LBA Tract is sold. Consistent with the EIS, the attached BLM Special Stipulations regarding cultural resources, paleontological resources, multiple mineral development, oil and gas/coal resources, resource recovery and protection, public land survey protection and the railroad right-of-way, as well as the attached USFS stipulations regarding cultural and paleontological resources and endangered or threatened species will be added to the coal lease, if the Thundercloud LBA Tract is sold and a lease is issued. The existing mitigation measures specific to the current mine plan will be amended to include mitigation measures specific to mining WYW136458 when the current mining permit is revised.

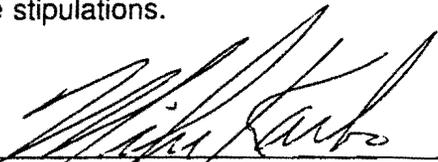
The Surface Mining Control and Reclamation Act of 1977 gives the Office of Surface Mining Reclamation and Enforcement the primary authority to administer programs regulating surface coal mining operations. In the state of Wyoming, the Wyoming Department of Environmental Quality has the approval of the Secretary of the Interior to regulate surface coal mining activities in the state. If the successful qualified high bidder on Federal coal tract WYW136458 is the operator of an adjacent mine (either the Jacobs Ranch Mine or the Black Thunder Mine), approval of a mining and reclamation plan revision must be obtained prior to mining coal on the tract. If the successful qualified high bidder does not operate an adjacent mine and proposes to open a new mine, approval of a new mining and reclamation plan must be obtained prior to mining the coal in the tract. 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 for WYW136458 before the tract is 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 Thundercloud LBA Tract.

RECOMMENDATION:

I recommend that Federal coal tract WYW136458, affecting 3,545.503 acres, be issued to the successful qualified high bidder after a competitive lease sale, if it is determined that the highest bid meets or exceeds the fair market value of the tract as determined by the BLM, and if all other leasing requirements are met. The competitive lease sale will be held in accordance with the requirements of 43 CFR 3425. The lease will be subject to the attached BLM and USFS special lease stipulations.



Casper District Manager, BLM

7/15/98

Date

Attachments

- Form 1842-1, Information on Taking Appeals to the Board of Land Appeals
- BLM Special Lease Stipulations
- USFS Special Stipulations
- Comments received on the "Final Environmental Impact Statement for the Powder River Coal Lease Application (WYW136142) and Thundercloud Coal Lease Application (WYW136458)", and BLM responses

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

CONSENT TO LEASING SALE

FOREST SERVICE WILL INSERT

APPROVED:

Based on the recommendations of the Casper District Manager, dated , and with the consent of the Regional Forester, I hereby approve the decision to offer Federal coal tract WYW136458 for competitive lease sale.

Appeal Procedure

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

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

Standard for Obtaining a Stay

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

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

Wyoming State Director, BLM

Date

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

INFORMATION ON TAKING APPEALS TO THE 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

1. NOTICE OF APPEAL Within 30 days file a *Notice of Appeal* in the office which issued this decision (see 43 CFR Secs. 4.411 and 4.413). You may state your reasons for appealing, if you desire.

2. WHERE TO FILE
NOTICE OF APPEAL State Director
BLM Wyoming State Office
P.O. Box 1828
Cheyenne, WY 82003

SOLICITOR
ALSO COPY TO Regional Solicitor
Rocky Mountain Region
U.S. Department of the Interior
755 Parfet Street, Suite 151
Lakewood, CO 80215

3. STATEMENT OF REASONS Within 30 days after filing the *Notice of Appeal*, 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 the Secretary, Board of Land Appeals, 4015 Wilson Blvd., Arlington, Virginia 22203 (see 43 CFR Sec. 4.412 and 4.413). If you fully stated your reasons for appealing when filing the *Notice of Appeal*, no additional statement is necessary.

SOLICITOR
ALSO COPY TO Regional Solicitor
Rocky Mountain Region
U.S. Department of the Interior
755 Parfet Street, Suite 151
Lakewood, CO 80215

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 *Notice of Appeal*, (b) the Statement of Reasons, and (c) any other documents filed (see 43 CFR Sec. 4.413). Service will be made upon the Associate Solicitor, Division of Energy and Resources, Washington, D.C. 20240, instead of the Field or Regional Solicitor when appeals are taken from decisions of the Director (WO-100).

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 the Secretary, Board of Land Appeals, 4015 Wilson Blvd., Arlington, Virginia 22203. This may consist of a certified or registered mail "Return Receipt Card" signed by the adverse party (see 43 CFR Sec. 4.401(c)(2)).

Unless these procedures are followed your appeal will be subject to dismissal (see 43 CFR Sec. 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 (see 43 CFR Sec. 4.401(a))

BLM SPECIAL STIPULATIONS

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 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 officer 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 resource properties within the lease area from lease-related activities until the cultural resource mitigation measures can be implemented as part of an approved mining and reclamation or exploration plan.

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

(4) If cultural resources are discovered during operations under this lease, the lessee shall immediately bring them to the attention of the Assistant Director or Authorized Officer, or the Authorized Officer of the surface managing agency, if the Assistant Director is not available. The lessee shall not disturb such resources except as may be subsequently authorized by the Assistant Director or Authorized Officer.

Within two (2) working days of notification, the Assistant Director or Authorized Officer will

evaluate or have evaluated any cultural resources discovered and will determine if any action may be required to protect or preserve such discoveries. The cost of data recovery for cultural resources discovered during lease operations shall be borne by the surface managing agency 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 construction, the find will be reported to the Authorized Officer immediately. Construction 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 of significant scientific interest discovered during the operations.

(c) ***MULTIPLE MINERAL DEVELOPMENT*** - Operations will not be approved which, in the opinion of the Authorized Officer, would unreasonably interfere with the orderly development and/or production from a valid existing mineral lease issued prior to this one for the same lands.

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

(e) ***RESOURCE RECOVERY AND PROTECTION*** - 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 unrecovered 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 unminable by the operation, the operator/lessee shall submit appropriate justification to obtain approval by the authorized officer (AO) to leave such reserves unmined. Upon approval by the AO, 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 AO determines that the R2P2, as approved, will not attain MER as the result of

changed conditions, the AO will give proper notice to the operator/lessee as required under applicable regulations. The AO 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 AO that the coal reserves have been rendered unminable or at such time that the operator/lessee has 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.

(f) **PUBLIC LAND SURVEY PROTECTION** - The lessee will protect all survey monuments, witness corners, reference monuments, and bearing trees against destruction, obliteration, or damage during operations on the lease areas. If any monuments, corners or accessories are destroyed, obliterated, or damaged by this operation, the lessee will hire an appropriate county surveyor or registered land surveyor to reestablish or restore the monuments, corners, or accessories at the same location, using surveying procedures in accordance with the "Manual of Surveying Instructions for the Survey of 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.

(g) **RAILROAD RIGHT-OF-WAY** - No mining activity of any kind may be conducted within the Burlington Northern/Chicago and Northwestern railroad right-of-way. The lessee shall recover all legally and economically recoverable coal from all leased lands not within the foregoing right-of-way. Lessee shall pay all royalties on any legally and economically recoverable coal which it fails to mine without the written permission of the Authorized Officer.

Forest Service stipulation--Forest Service will insert