

**U.S. DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT  
Corrected Record of Decision for the  
MAYSDORF II LEASE BY APPLICATION**

**CAMPBELL COUNTY, WYOMING  
WYW173360 AND WYW180711**

On August 30, 2012 BLM Wyoming High Plains District Manager Stephanie Connolly signed the Record of Decision for the Maysdorf II Lease by Application (LBA), Campbell County, Wyoming, WYW173360 and WYW180711 (ROD).

On August 30, 2012, a Notice of Availability of this ROD was published in the *Federal Register*. Page 19 of the ROD inadvertently stated that “The area where Hilight Road crosses BLM’s Maysdorf II tract as applied for and study area has been removed from leasing...”. This is not a correct statement.

This corrected ROD (1) changes language on page 19 under the section titled “Conformance With Existing Land Use Plans”; (2) adds language to the same section on page 19 to address the unavailability for mining the railroad right-of-way consistent with Unsuitability Criteria Number 2, and two public road rights-of-way consistent with Unsuitability Criteria Number 3 of the *Approved Resource Management Plan for Public Lands Administered by the Bureau of Land Management, Buffalo Field Office* (2001); and (3) adds two special stipulations to the standard coal lease form (see ROD, Appendix 2) as was stated would occur in the South Gillette Area Coal Lease Applications Environmental Impact Statement (SGA EIS). The additional and corrected language does not change the High Plains District Manager’s decision to choose Alternative 3. The additional and corrected language is consistent with the application of unsuitability criteria required by the Surface Mining Control and Reclamation Act of 1977, BLM regulations at 43 CFR 3461, and analyses provided in the SGA EIS.

The correction includes the removal of paragraph 2 on page 19 (beginning with “Unsuitability Criterion Number 3...”) of the ROD and inserts the following wording:

*“A portion of the Burlington Northern Santa Fe & Union Pacific (BNSF & UP) railroad and right-of-way (ROW) borders the east side of the Maysdorf II LBA South tract. Lands within the rail line ROW and associated appropriate mining related offset were found to be unsuitable for mining under Unsuitability Criterion Number 2. Although the lands within the railroad ROW and mining related offset have been determined to be unsuitable for mining, because coal leasing regulations do not allow leasing in less than 10-acre aliquot parts, lands in the ROW and associated appropriate mining related offset are included in the tract to allow for efficient recovery of all mineable coal adjacent to and outside of these areas.*

*The lease will include a stipulation stating that no mining activity may be conducted in the portion of the lease within the railroad ROW or associated appropriate mining related offset. This stipulation is consistent with the finding of unsuitability for mining under Unsuitability Criterion Number 2.*

*Unsuitability Criterion Number 3 states that lands within 100 feet of the outside line of the ROW of a public road shall be considered unsuitable for surface coal mining. A portion of Hilight Road crosses BLM's selected configuration for the Maysdorf II LBA South tract. A portion of State Highway 59 crosses the lease tract boundary of the Maysdorf II LBA North tract. BLM has determined that the portion of the Maysdorf II tracts that include these roads, the ROWs, and all lands within 100 feet of the outside lines of the ROWs are currently unsuitable for mining under Unsuitability Criterion Number 3.*

*There are certain exceptions to Unsuitability Criterion Number 3. One of the exceptions would allow for surface coal mining in a public road ROW and within 100 feet of the outside lines of the ROW if the regulatory authority (or the appropriate public road authority designated by the regulatory authority) allows the public road to be relocated or closed after providing public notice and opportunity for a public hearing. A finding must be reached, stated in writing, that the interests of the affected public and landowners will be protected [30 CFR 761.11(d) and 43 CFR 3461.5(c)(iii)]. When the Maysdorf II application was filed, the applicant did not have approval from the appropriate county road authority (Campbell County Commission) or from the Wyoming Department of Transportation to relocate Hilight Road or State Highway 59. Currently there are no proposals to relocate either road and therefore, this exception does not apply. If in the future a permit is approved to relocate either road outside of the Maysdorf II tracts this would allow for recovery of the coal that underlies the public road ROW and within 100 feet of the outside lines of the ROW.*

*Although the lands that are within the ROW and within 100 feet of the outside lines of the ROW have been determined to be unsuitable for mining, and because coal leasing regulations do not allow leasing in less than 10 acre aliquot parts; lands in the ROW and buffer zone are included in the Maysdorf II tracts to allow for efficient recovery of all adjacent mineable coal. If a lease is issued for this tract, it will include a stipulation stating that no mining activity may be conducted in the portion of the lease within the public road ROW or within 100 feet of the outside lines of the ROW unless a permit to move the road is approved. The stipulation is consistent with the finding of unsuitability for mining under Unsuitability Criterion Number 3."*

Further, the following Special Stipulations were inadvertently omitted and shall be added to page 32, Appendix 2, of the ROD:

*“(h) Public Road Right-Of-Way And Buffer Zone*

*No mining activity of any kind may be conducted within the Hilight Road right-of-way, or the State Highway 59 right-of-way, or within 100 feet of the outside lines of the rights-of-way, while either of these public roads remain in their current locations. The lessee shall recover all legally and economically recoverable coal from all leased lands not within the foregoing rights-of-way and 100 feet of the outside lines of the rights-of-way. If permits are obtained to relocate the subject road or highway and are approved by the appropriate authority, the lessee shall recover all legally and economically recoverable coal from all leased lands within the foregoing rights-of-way and 100 feet of the outside lines of the rights-of-way. The 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.*

*(i) Railroad Right-Of-Way And Buffer Zone*

*No mining activity of any kind may be conducted within the Burlington Northern Santa Fe & Union Pacific railroad right-of-way and associated appropriate mining related offset. The lessee shall recover all legally and economically recoverable coal from all leased lands not within the foregoing right-of-way. The 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."*

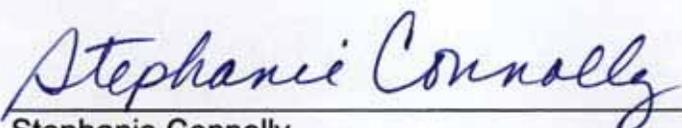
The purpose of this corrected ROD is to add text and correct language in those sections of the ROD discussing "Conformance With Existing Land Use Plans" and identify "Special Stipulations". It does not change the decision that it is in the public interest to offer the Maysdorf II LBA North and South tracts for competitive lease sale.

Copies of the corrections to the ROD have been mailed to individuals on the mailing list for this LBA. A copy of the decision and correction may also be found on the BLM website at: <http://www.blm.gov/pgdata/content/wy/en/info/NEPA/documents/hpd/SouthGillette.html>.

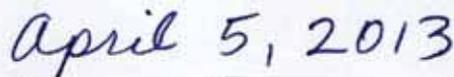
This notice of corrected ROD does not affect the parties who filed timely appeals, and any appeal that has been filed to date will be processed in accordance with applicable procedures. The appeal procedures described below apply to those persons or entities that wish to appeal the addition of the omitted text to the ROD.

#### APPROVAL

I approve the correction of the August 30, 2012 Record of Decision to offer Federal coal tracts WYW173360 and WYW180711. This approval does not change the decision of the August 30, 2012 ROD, but adds text and corrects language in those sections of the ROD discussing "Conformance With Existing Land Use Plans" and adds Special Stipulation h) Public Road Right-Of-Way And Buffer Zone and (i) Railroad Right-Of-Way And Buffer Zone.



Stephanie Connolly  
BLM Wyoming High Plains District Manager



Date

#### APPEAL PROCEDURES

This correction to the ROD may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR Subpart 4 and the enclosed form 1842-1 (Appendix 4). If an appeal is filed, your notice of appeal must be filed in this office (BLM, Wyoming High Plains District Office, 2987 Prospector Drive, Casper, WY 82604) within thirty (30) days from the date BLM published the Notice of Availability (NOA) of

this Corrected Record of Decision in the Federal Register. The appellant has the burden of showing that the corrected Record of Decision appealed is in error.

If you wish to file a petition (request) pursuant to regulations 43 CFR 4.21(a)(2) for a stay (suspension) of the effectiveness of this correction 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 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 a stay is granted or denied;
- 2) The likelihood of the appellant's success on the merits;
- 3) The likelihood of the immediate and irreparable harm if the stay is not granted; and,
- 4) Whether the public interest favors granting a stay.