

FINDING OF NO SIGNIFICANT IMPACT
Bureau of Land Management
Rock Springs Field Office

Project Title: Bridger Coal Lease Modification to WYW-154595

EA Number: WY-040-EA15-120

Lease/Serial/Case File No.: WYW-154595

Applicant: Bridger Coal Company
c/o Interwest Mining Company
1407 West North Temple, Suite 310
Salt Lake City, Utah 84116

Location of Proposed Action: Approximately 35 miles northeast of Rock Springs, Sweetwater County, Wyoming in Section 28, Township 22 North, Range 101 West.

BACKGROUND

The Jim Bridger Coal Mine complex, located in southwestern Wyoming approximately 35 miles northeast of Rock Springs, is operated by Bridger Coal Company (BCC) and consists of a multi-faceted mining operation inclusive of surface, underground, and highwall mining methods together with ongoing reclamation operations. The Jim Bridger Coal Mine complex has been in production since 1974 providing coal to the adjacent Jim Bridger Power Plant. The annual production of this mine complex is approximately 6 million tons. The coal produced by underground mining methods replaces coal previously produced by surface mining methods, with no resulting change in annual coal production. Efforts to reclaim lands previously mined for surface coal can be increased as a result of shifting from surface mining to underground mining, which in fact is being done at the BCC mining operations.

The BCC filed an application on March 21, 2014 to modify federal coal lease WYW-154595 to include 120.02 acres of unleased contiguous federal coal lands situated within Section 28, Township 22 North, Range 101 West. The federal coal reserves contained within this lease tract, estimated at approximately .738 million tons of mineable coal, would be mined, delivered and utilized for the generation of electricity. The Bureau of Land Management (BLM) processed and evaluated the application under the following authorities: Mineral Leasing Act of 1920 as amended; Multiple-Use Sustained Yield Act of 1960; National Environmental Policy Act of 1969 as amended; Federal Coal Leasing Amendments Act of 1976; Federal Land Policy and Management Act of 1976; Surface Mining Control and Reclamation Act of 1977; and the Energy Policy Act of 2005.

Federal coal lease WYW-154595 was originally issued to BCC on March 1, 2005. This lease modification would not displace other competitive commercial interests in the lands or deposits;

would not include coal deposits that can be developed as a part of another potential or existing mining operation; and would be in the interest of the United States. This lease modification would not exceed the modified acreage limitation of 960 acres as set forth with the passage of the Energy Policy Act of 2005.

FINDING OF NO SIGNIFICANT IMPACT

Based upon the information contained in *Bridger Coal Lease Modification to WYW-154595 Environmental Assessment* (WY-040-EA15-120) and all other information available to me, it is my determination that: (1) the implementation of the Proposed Action will not have significant environmental impacts beyond those already addressed in Green River Resource Management Plan (GRRMP) and Record of Decision (signed August 8, 1997) as amended by the Record of Decision and Approved Resource Management Plan Amendments for the Rocky Mountain Region, Including the Greater Sage-Grouse Sub-Regions of Lewistown, North Dakota, Northwest Colorado, and Wyoming (signed September 21, 2015); (2) the Proposed Action is in conformance with the GRRMP (1997); and (3) the Proposed Action does not constitute a major federal action having a significant effect on the human environment. Therefore, an Environmental Impact Statement (EIS) or a supplement to the existing EIS is not necessary and will not be prepared.

The Proposed Action has been designed to avoid or minimize environmental impacts to the extent feasible. This finding is based on my consideration of the Council on Environmental Quality's (CEQ) criteria for significance (40 CFR 1508.27), both with regard to the context and to the intensity of the impacts described in the Environmental Assessment (EA) or as articulated in the comment letters.

No mitigation was identified by resource specialists, however a design feature would be implemented into the proposed lessee's Wyoming Department of Environmental Quality-Land Quality Division mine permit and Proposed Action. This design feature would require BCC and the Sweetwater County engineer to sign an agreement to guide repairs of any subsidence damage as a result of the Proposed Action to Sweetwater County Road 15. To minimize road effects and ensure public safety, BCC would conduct subsidence monitoring and road maintenance to address any travel or safety issues resulting from underground mining beneath the road. During mining operations, BCC would monitor the county road for subsidence damage and would promptly make any needed repairs (the prompt attention to needed repairs would help prevent larger amounts of damage from accumulating). BCC would also post signs to notify and caution county road users of the subsidence potential.

Additionally, the lessee would be required to comply with the BLM coal lease stipulations (refer to Exhibit 1).

Context

The project area is adjacent to current underground mining operations at the larger Bridger Mine Complex. The proposed lease modification would support future expansion on the northwestern side of the underground mine. This federal coal is located within the checkerboard land pattern and rights to mine coal from some adjacent private lands have already been secured by BCC.

The modification of the existing federal coal lease would ensure that all of the potentially mineable coal can be reached. The inclusion of this lease modification tract into the existing Jim Bridger underground coal mine operation would provide for efficient mining and is the only economical and technologically feasible means of recovering these federal coal reserves. If the federal resource under consideration for lease is not mined in conjunction with the intervening private coal, it would likely be bypassed.

The proposed lease modification tract is adjacent to current operations. The existing mine infrastructure provides an economical and technological mechanism of mining these coal resources. Mining of the approximately .738 million tons of mineable coal in the lease modification area is anticipated to add up to approximately 1.5 years of reserves to the existing operation, depending upon power plant fueling requirements. The coal produced by underground mining methods replaces coal previously produced by surface mining methods, with no resulting change overall in annual coal production.

Intensity

1. Impacts that may be both beneficial and adverse.

Sections 3 and 4 of the EA identify the impacts that are anticipated to occur as a result of implementation of the Proposed Action. Impacts of this lease modification would not be significant and the coal lease stipulations would alleviate potential impacts. Benefits of the project would include continuation of employment for mine workers for approximately 1.5 years; royalties to the state of Wyoming and the Federal government; and contribution of coal to meet the region's energy needs.

2. The degree to which the proposed action affects public health and safety.

There are no public health or safety issues anticipated from the implementation of the proposed action. It is possible that Sweetwater County Road 15 may experience approximately 6-9 feet of subsidence as a result of the Proposed Action. Any public safety concerns as a result of this subsidence would be minimized as a design feature was included in the Proposed Action stating that BCC would be required to monitor the county road for subsidence damage and would promptly make any needed repairs. Additionally, BCC would post signs to notify and caution county road users of the subsidence potential.

3. Unique characteristics of the geographic area such as proximity of historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas.

No lands with unique characteristics exist within the proposed project area. Any potential adverse effects to cultural sites would be mitigated through the existing Memorandum of Agreement between the Bureau of Land Management, State Historic Preservation Office, Office of Surface Mining Reclamation and Enforcement, Wyoming Department of Environmental Quality, and BCC regarding effects to historic properties for the current Jim Bridger underground coal mine.

4. The degree to which the effects on the quality of the human environment are likely to be highly controversial.

The extent and degree of impacts on the human environment for this lease modification would not be significant; these impacts are discussed in Sections 3 and 4 of the EA. Coal leasing decisions have been made in this area by the BLM for many years. It is not possible to attribute emissions of Green House Gasses (GHG) from any particular source to a specific climate impact, globally or regionally, due to the longevity of GHGs in the atmosphere. GHG emissions from all sources contribute to increased incremental concentrations in the earth's atmosphere and to the global climate response. The potential intensity of effects on the quality of the human environment is minimal. Preparation of an EIS is not warranted.

5. The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.

Possible effects to the human environment are not highly uncertain and do not involve unique or unknown risks. The project is not unique or unusual in this area. Coal mining has been ongoing in the area for decades. There are no predicted potential effects to the human environment that are considered to be highly uncertain or involve unique or unknown risks.

6. The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration.

This decision would not establish a precedent. This decision does not entail any known issues or elements that would create a precedent for future mining decisions. The decision does not represent a decision in principle about a future consideration.

7. Whether the action is related to other actions with individually insignificant but cumulatively significant impacts.

The Proposed Action was considered in the context of past, present, and reasonably foreseeable future actions.

The lands in proximity to the coal lease modification are managed for multiple uses or are privately held lands. Minimal individual effects and minimal cumulative effects are expected when added to the existing situation and other potential activities.

8. The degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historic resources.

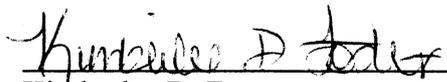
The project area was covered under a cultural resource inventory conducted for a large scale project between 2011 and 2013. During this inventory, no cultural or historic resources were identified in the area of this particular project. The project area has also been inventoried for scientific resources, including paleontology. No scientific resources were found or are known to be in the project area.

9. The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973.

The Proposed Action was analyzed for impacts to Threatened, Endangered and sensitive species. No concerns were identified, as the mining is completely underground and no surface disturbance is expected. Consultation with the US Fish and Wildlife Service is not recommended.

10. Whether the action threatens a violation of Federal, State, or local law or requirements imposed for the protection of the environment.

The Proposed Action is consistent with all Federal, State, and local laws.



Kimberlee D. Foster
Field Manager
Rock Springs Field Office



Date

EXHIBIT 1. LEASE STIPULATIONS FOR WYW154595

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 Regional Director of the Western Region of the Office of Surface Mining (the Western Regional Director), 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 Western Regional 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 Western Regional Director or Authorized Officer.

(2) Any existing Class III inventory report covering the lease area that has not received federal agency review must be reviewed and accepted by the agency, site NRHP eligibility determinations made, and consultation with the State Historic Preservation Officer completed before any surface disturbing activities take place.

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

(3) The lessee shall protect all cultural resource properties that have been determined eligible or unevaluated to the National Register of Historic Places within the lease area from lease-related activities until the cultural resource mitigation measures or site evaluations 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.

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

(5) If cultural resources are discovered during operations under this lease, the lessee shall immediately bring them to the attention of the Western Regional Director or Authorized Officer, or the Authorized Officer of the surface managing agency, if the Western Regional Director is not available. The lessee shall not disturb such resources except as may be subsequently authorized by the Western Regional Director or Authorized Officer. Within two (2) working days of notification, the Western Regional Director or Authorized Officer will evaluate or have evaluated any cultural resources discovered and will determine if any action may be required to protect or preserve such discoveries. The cost of data recovery for cultural resources discovered during lease operations shall be borne by the lessee unless otherwise specified by the Authorized Officer of the BLM or of the surface managing agency, if different.

(6) 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 of significant scientific interest discovered during the operations.

SEC. 15. SPECIAL STIPULATIONS (Continued) -

(c) THREATENED, ENDANGERED, CANDIDATE, OR OTHER SPECIAL STATUS PLANT AND ANIMAL SPECIES –

(1) 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.

(2) 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.

(3) Any potential habitat that has not already been surveyed for Ute ladies'-tresses within the project area shall be identified and surveyed prior to surface mining activities.

(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.

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

(f) **RESOURCE RECOVERY AND PROTECTION** - Notwithstanding the approval of a resource recovery and protection plan (R2P2) by the BLM, the 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 Office of Natural Resources Revenue (formerly Minerals Management Service) 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.

(h) **ADDITIONAL STIPULATIONS DEVELOPED AS MITIGATION MEASURES IN THE BRIDGER COAL LEASE MODIFICATION TO WYW154595 ENVIRONMENTAL ASSESSMENT-**

(1) The lessee will mitigate potential adverse effects to the prehistoric, National Register of Historic Places eligible site located entirely within the area of potential effect, and the segment of the Point of Rocks to South Pass Stage Road through an amendment to the existing Memorandum of Agreement between the Bureau of Land Management, State Historic Preservation Office, Office of Surface Mining Reclamation and Enforcement, Wyoming Department Environmental Quality, and Bridger Coal Company regarding effects to historic properties for the current underground mine.

(2) The lessee will accomplish short-term control of surface runoff, if needed, by implementation of alternate sediment control measures required by the Wyoming Department of Environmental Quality-Land Quality Division and as described in the mine plan. Long-term control of surface runoff will be accomplished by successful implementation of the reclamation plan in the associated mine plan.

DECISION RECORD
for
Bridger Coal Lease Modification to WYW-154595
Case # WYW-154595
EA #: WY-040-EA15-120

Summary

The Jim Bridger Coal Mine complex, located in southwestern Wyoming approximately 35 miles northeast of Rock Springs, is operated by Bridger Coal Company (BCC) and consists of surface, underground, and highwall mining methods together with ongoing reclamation operations. Federal coal lease WYW-154595 was originally issued to BCC on March 1, 2005. The BCC filed an application on March 21, 2014 to modify federal coal lease WYW-154595 to include 120.02 acres of unleased contiguous federal coal lands situated within Section 28, Township 22 North, Range 101 West.

This lease modification would not displace other competitive commercial interests in the lands or deposits; would not include coal deposits that can be developed as a part of another potential or existing mining operation; and would be in the interest of the United States. This lease modification would not exceed the modified acreage limitation of 960 acres as set forth with the passage of the Energy Policy Act of 2005.

Decision

Based upon the analysis of the potential environmental impacts described in the *Bridger Coal Lease Modification to WYW-154595 Environmental Assessment* (EA) and supporting documents in the case file, it is my decision to approve the Proposed Action to modify the existing federal coal lease WYW-154595 to include tracts of unleased federal coal lands situated within Section 28, Township 22 North, Range 101 West.

1. **Compliance with applicable laws:** The Proposed Action and alternatives were evaluated under the following authorities: Mineral Leasing Act of 1920 as amended; Multiple-Use Sustained Yield Act of 1960; National Environmental Policy Act of 1969 as amended; Federal Coal Leasing Amendments Act of 1976; Federal Land Policy and Management Act of 1976; Surface Mining Control and Reclamation Act of 1977 and the Energy Policy Act of 2005.

Regulations at 43 CFR 1610.5-3 (Conformity and Implementation) require actions to conform to the approved land use plan. The Green River Resource Management Plan (GRRMP) and Record of Decision (signed August 8, 1997) as amended by the Record of Decision and Approved Resource Management Plan Amendments for the Rocky Mountain Region, Including the Greater Sage-Grouse Sub-Regions of Lewistown, North Dakota, Northwest Colorado, and Wyoming (signed September 21, 2015) allows for coal leasing and development, and BLM has determined that the proposed modification of lease WYW154595 conforms to the GRRMP. The GRRMP provides land use guidance for coal leasing in the proposed project area.

2. **Selected Alternative:** Proposed Action/Alternative as described in Section 2.3 of the EA.

The Proposed Action has been designed to avoid or minimize environmental impacts to the extent feasible. No mitigation was identified by resource specialists; however, a design feature would be implemented into the proposed lessee's Wyoming Department of Environmental Quality-Land Quality Division mine permit and Proposed Action. This design feature would require BCC and the Sweetwater County engineer to sign an agreement to guide repairs of any subsidence damage as a result of the Proposed Action to Sweetwater County Road 15. To minimize road effects and ensure public safety, BCC would conduct subsidence monitoring and road maintenance to address any travel or safety issues resulting from underground mining beneath the road. During mining operations, BCC would monitor the county road for subsidence damage and would promptly make any needed repairs (the prompt attention to needed repairs would help prevent larger amounts of damage from accumulating). BCC would also post signs to notify and caution county road users of the subsidence potential. Surface disturbing and disruptive activities would be minimized by applying the design feature identified for the Greater Sage-Grouse under the Proposed Action/Decision.

Additionally, the lessee would be required to comply with the BLM coal lease stipulations (refer to Exhibit 1).

3. **FONSI.** I have determined that the proposed project is in conformance with the approved land use plan. I have reviewed this EA including the analysis of potentially significant environmental impacts. I have determined that the Proposed Action in the EA will not have any significant impacts on the human environment and that an Environmental Impact Statement is not required. It is my decision to implement the Proposed Action.
4. **Public Involvement.** The BLM Rock Springs Field Office (RSFO) issued a news release on December 11, 2014 on the BLM Wyoming website, requesting public comment on the Proposed Action. The news release was also published on various local and state media sources including the Rocket Miner Newspaper and SweetwaterNow.com website. The 30-day comment period ended on January 16, 2015. During this period, the BLM received two comment letters: both from nongovernmental organizations.

A Summary of the Scoping Comments received is included as Appendix A of the EA.

5. **Rationale for Alternative Selected.** The Proposed Action as described in the EA was selected because it is in compliance with the Green River Resource Management Plan (1997), as amended and the BLM has determined it will not have any significant impacts on the human environment. This lease modification:
 - Would not exceed the modified acreage limitation of 960 acres as set forth with the passage of the Energy Policy Act of 2005;
 - Would not displace other competitive commercial interests in the lands or deposits;
 - Would not include coal deposits that can be developed as a part of another potential or existing mining operation;

- Would be in the interest of the United States;
- Creates a contiguous property between the existing federal, private and state leases, thus providing the necessary legal right-of-entry to sequentially mine westward from the existing underground mine onto these adjacent lands;
- Allows mining of federal coal that would otherwise not be logically accessible and recoverable by any other operation and would otherwise most likely be bypassed;
- Provides additional revenues to the United States in the form of lease bonuses, annual rentals, and production royalties;
- Provides a logical and sustained link within the existing boundaries for continued operations;
- Allows efforts to reclaim land previously mined for surface coal to be increased as a result of shifting from surface mining to underground mining.

6. **Appeal Procedures.** 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 Form 1842-1. If you file an appeal, your notice of appeal must be filed in the Bureau of Land Management, Rock Springs Field Office, 280 Highway 191 North, Rock Springs, WY 82901, within 30 days from receipt of this decision. You have 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 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.

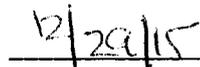
Standards for Obtaining a Stay

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.



Kimberlee D. Foster
Field Manager
Rock Springs Field Office



Date

EXHIBIT 1. LEASE STIPULATIONS FOR WYW154595

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 Regional Director of the Western Region of the Office of Surface Mining (the Western Regional Director), 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 Western Regional 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 Western Regional Director or Authorized Officer.

(2) Any existing Class III inventory report covering the lease area that has not received federal agency review must be reviewed and accepted by the agency, site NRHP eligibility determinations made, and consultation with the State Historic Preservation Officer completed before any surface disturbing activities take place.

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

(3) The lessee shall protect all cultural resource properties that have been determined eligible or unevaluated to the National Register of Historic Places within the lease area from lease-related activities until the cultural resource mitigation measures or site evaluations 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.

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

(5) If cultural resources are discovered during operations under this lease, the lessee shall immediately bring them to the attention of the Western Regional Director or Authorized Officer, or the Authorized Officer of the surface managing agency, if the Western Regional Director is not available. The lessee shall not disturb such resources except as may be subsequently authorized by the Western Regional Director or Authorized Officer. Within two (2) working days of notification, the Western Regional Director or Authorized Officer will evaluate or have evaluated any cultural resources discovered and will determine if any action may be required to protect or preserve such discoveries. The cost of data recovery for cultural resources discovered during lease operations shall be borne by the lessee unless otherwise specified by the Authorized Officer of the BLM or of the surface managing agency, if different.

(6) 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 of significant scientific interest discovered during the operations.

SEC. 15. SPECIAL STIPULATIONS (Continued) -

(c) THREATENED, ENDANGERED, CANDIDATE, OR OTHER SPECIAL STATUS PLANT AND ANIMAL SPECIES –

(1) 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.

(2) 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.

(3) Any potential habitat that has not already been surveyed for Ute ladies'-tresses within the project area shall be identified and surveyed prior to surface mining activities.

(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.

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

(f) **RESOURCE RECOVERY AND PROTECTION** - Notwithstanding the approval of a resource recovery and protection plan (R2P2) by the BLM, the 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 Office of Natural Resources Revenue (formerly Minerals Management Service) 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.

(h) **ADDITIONAL STIPULATIONS DEVELOPED AS MITIGATION MEASURES IN THE BRIDGER COAL LEASE MODIFICATION TO WYW154595 ENVIRONMENTAL ASSESSMENT-**

(1) The lessee will mitigate potential adverse effects to the prehistoric, National Register of Historic Places eligible site located entirely within the area of potential effect, and the segment of the Point of Rocks to South Pass Stage Road through an amendment to the existing Memorandum of Agreement between the Bureau of Land Management, State Historic Preservation Office, Office of Surface Mining Reclamation and Enforcement, Wyoming Department Environmental Quality, and Bridger Coal Company regarding effects to historic properties for the current underground mine.

(2) The lessee will accomplish short-term control of surface runoff, if needed, by implementation of alternate sediment control measures required by the Wyoming Department of Environmental Quality-Land Quality Division and as described in the mine plan. Long-term control of surface runoff will be accomplished by successful implementation of the reclamation plan in the associated mine plan.