

Major Steps and Associated Responsibilities For Federal Coal Lease by Applications in BLM Wyoming

A general summary of the processing steps for a Federal coal lease by application (LBA) process for Bureau of Land Management (BLM) Wyoming is presented. The purpose of this compilation is to clarify the steps and responsibilities for processing an LBA. Included is an identification of the BLM Wyoming office with lead responsibility for each step of the process. Also addressed are the major interactions of other BLM offices with the lead office. The discussions in this attachment are intended to focus on BLM actions and not on interactions with companies or other agencies.

LBA processing can be divided into eight steps; (1) Review and Adjudicate Application, (2) Powder River Regional Coal Team Review (only for LBAs in the Powder River Coal Region), (3) Establish an LBA Team, Establish a Cost Recovery Account, and Determine a Study Area, (4), Prepare the National Environmental Policy Act (NEPA) document, (5) Develop Tract Delineation, (6) Determine Fair Market Value (FMV) and Maximum Economic Recovery (MER), (7) Offer the Tract for Lease Sale, and (8) Lease Issuance.

Each step is discussed below and the BLM office with the lead responsibility is identified. Also discussed are the major interactions of the lead office with other BLM offices having responsibility. It should be noted that this is not a linear process and the timeframe of the different steps will overlap.

Coal staffing structure is organized differently in the High Plains District Office (HPD) and the High Desert District Office (HDD). In the HPD, the coal staff is consolidated under the District Manager. In the HDD, the coal staff is distributed throughout field offices. Due to the differences in the physical location of staff, it follows that some functions that are completed in the HPD for the Powder River Coal Region are performed in the Rock Spring Field Office (FO), Rawlins FO, or the Kemmerer FO of the HDD for the Green River and Hams Fork Coal Region. In this document, the phrase “HD coal staff” is used to describe the HDD distributed structure.

Both the Powder River Coal Region and the Green River-Hams Fork Coal Region are decertified, but the Powder River Coal Region still has an active Regional Coal Team (RCT). The RCT is chaired by the State Director (SD) of the BLM Wyoming and membership consists of the BLM Wyoming Deputy State Director (DSD) of Minerals and Lands, the Governor of Wyoming, the SD of BLM Montana, and the Governor of Montana. The RCT considers coal management issues in the Powder River Coal Region and advises the BLM on processing proposed LBA tracts. Therefore, step 2 - the Powder River Regional Coal Team Review - is only applicable if an LBA is within the Powder River Coal Region.

1) **Review and Adjudicate Application**

A potential lessee nominates a coal tract for BLM leasing consideration by submitting a written application to the BLM. By regulation, the application is submitted to the State Office (SO). The items required for inclusion in the application are outlined in the regulations. Additional requirements for LBAs filed in the Powder River Coal Region were outlined in the BLM Wyoming August 2011 Notice to Wyoming PRB Coal Lessees.

Lead Office: SO

After the application is received, the SO assigns a serial number, reviews the application for adjudicative completeness, ensuring the lands are properly described and available for lease. The SO requests a review by the appropriate HPD or HD coal staff and provides a copy of the application to that office. For LBAs in the Powder River Coal Region, the review includes the application's suitability for presentation to the RCT.

The SO compiles all comments and transmits them to the applicant for response. When the application is adequate, the DSD for Minerals and Lands notifies the applicant by letter that their application is complete, and if the application is in the Powder River Coal Region, that it is ready for presentation to the Powder River RCT. The SD notifies the Wyoming Governor that the BLM has received the application. If the application is in the Powder River Coal Region, the RCT is notified that the application has been received. For applications in the Green River and Hams Fork Coal Region, a courtesy notification is sent to the BLM Colorado SD since he is the chairman of the RCT for the Green River and Hams Fork Coal Region which no longer regularly meets.

Staff: Accounting, Land Law Examiner, Regional Coal Coordinator, Chief of the Branch of Solid Minerals, Deputy State Director for Lands and Minerals, State Director

Contributing Offices:

HPD or HD coal staff, FO

The HPD or HD coal staff reviews the application to assure it meets the regulations and, if the tract is located in the Powder River Coal Region, the BLM 2011 Notice requirements. The HPD or HD coal staff is responsible for contacting the appropriate FOs for a determination of land use plan conformance. If surface lands are under the jurisdiction of another Federal land agency, then HPD or HD coal staff requests that the Federal land management agency provide information regarding the LBAs

conformance with the applicable land use plan. The HPD or HDD compiles FO and HPD or HD coal staff comments and sends them by memorandum to the SO.

Staff: Environmental Specialist, Geologist, Engineer, Assistant District Manager Solid Minerals, Assistant Field Manager Lands and Minerals

FO

The FO reviews the application to assure that the LBA lies in an area acceptable for further coal leasing consideration in the land use plan.

Staff: Geologist, Mining Engineer, Planner, or Field Manager

2) Powder River Regional Coal Team Review

LBA applications in the Powder River Coal Region are presented before and voted on by the Powder River RCT. If the vote is affirmative, the BLM proceeds with processing the LBA.

Lead Office: SO

The SO is the lead in working with the applicant to ensure their LBA is complete prior to presentation to the RCT. When the application is complete, the Chairman of the RCT requests the applicant make a presentation to the RCT. After the presentation to the RCT, the chairman calls for a vote by the RCT to advise the BLM either to proceed or to not proceed with processing the LBA.

Staff: Regional Coal Coordinator, Chairman RCT

3) Establish an LBA Team, Establish a Cost Recovery Account, and Determine a Study Area

If there is an affirmative decision to process an LBA by the Powder River RCT, or when the application is determined to be complete in the Green River-Hams Fork Coal Region, the HPD or HD coal staff will identify a team to evaluate and process the LBA. At a minimum, the LBA team consists of a mining engineer, a geologist, an economist, and an environmental specialist. Other staff may be added as needed. Prior to developing the cost recovery estimate, the Authorized Officer must also make a decision on the appropriate SO/DO/FO resource specialists to assign to the Interdisciplinary Team (IDT) needed to prepare the NEPA document for the LBA. It is the mutual responsibility of the SO/DO to make a cost estimate for the work involved. The HPD or HD coal staff will coordinate with LBA and IDT team members to complete an estimate of hours and tasks associated with the LBA processing. The HPD or HD coal staff will send these estimates to the applicant and set up a payment schedule.

The LBA team establishes a study area which encompasses all coal that is reasonable to offer for coal leasing. The study area delineates the boundary required for baseline studies and establishes the largest area presented as an alternative in the NEPA analysis. This information will be sent to the SO and applicant for their comments prior to finalizing. The Authorized Officer makes the final determination of the study area.

Lead Office: HPD or HD coal staff

Staff: Land Law Examiner, Environmental Specialist, Mining Engineer, Geologist, Field Manager Assistant District Manager Solid Minerals, District Manager

Contributing Office: SO

The SO contributes staff to the LBA team and IDT. The SO also provides input about the lands to be included in the study area.

Staff: Appraiser, Economist, Regional Coal Coordinator, other staff as needed

4) Prepare the National Environmental Policy Act documents for an LBA

A NEPA analysis is completed on any proposed LBA before a decision is made to lease or not lease the tract.

Lead Office: HPD or HD coal staff

The HPD or HD coal staff is the lead office throughout the NEPA process. Activities include scoping, selection of contractors, developing memorandums of understanding with contractor and cooperating agencies, establishing an IDT, reviewing or coordinating the review of data reports by the FO, organizing public meetings and preparing public notices, issuing draft Environmental Assessment (EA) or Environmental Impact Statement (EIS), reviewing or coordinating the review of the NEPA documents by the FO and SO, responding to comments, and completing other parts of the NEPA process. The HPD or HD coal staff is responsible for coordinating with the appropriate FO for any technical expertise required on the IDT. The HPD or HD coal staff will be responsible for preparing all required Federal Register Notices (FRNs) associated with NEPA, including the associated scoping and public hearing for comments on NEPA, FMV, and MER related to the proposed tract, and on the Record of Decision (ROD). These notices will be placed into the BLM Wyoming FRN database for SO review by the HPD or HD coal staff.

For the draft EIS, the BLM identifies the preferred alternative based on the preliminary tract delineation. In most cases, the BLM's preferred alternative in the final EIS will also represent the final tract delineation. The ROD is written by the HPD or HD coal staff and is signed by the District Manager.

If the no action alternative is selected, a signature of the SD is also required on the ROD.

Staff: Environmental Specialist, Field Manager, or Assistant District Manager Solid Minerals, District Manager

Contributing Offices: SO and FO

SO provides reviews and other support activities upon request. The Air Quality Specialist, the Regional Coal Coordinator, and an Economist are members of the IDT.

The SO will finalize all FRNs associated with the NEPA, FMV, MER, and ROD. These FRNs will be signed by the SD.

The SO will prepare for DSD signature and submit notices of availability (NOA) for publication in local newspapers. A NOA to prepare an EIS, a NOA of Draft EIS and MER/FMV hearing, and a NOA of Final EIS are published in the local newspaper.

The FO provides requested technical expertise to the ID team.

Staff: SO; SD, DSD, Air Quality Specialist, Regional Coal Coordinator, Socio-Economist, Land Law Examiner; FO; Technical Specialists

5) Develop Tract Delineation

The tract nominated for leasing by the applicant may be reconfigured by the BLM for reasons of public interest and resource conservation. Some common reasons to reconfigure a tract are to MER, to increase potential value, promote competition, to reduce potential impacts to other resources, and to accommodate qualified surface ownership constraints. Steps in tract delineation occur at different times in the LBA process as more information is known about the tract. However, the final tract delineation is not made until after the Final EIS is issued. The final tract delineation is presented before the Coal Steering Committee (CSC) for approval or disapproval. A written tract delineation decision document is signed by the SD. In 1991 the BLM Wyoming SD issued Instruction Memorandum Number WY-91-182, which established the CSC. The CSC was assigned the final responsibility for making any decisions related to tract delineation. The CSC is chaired by the SD and consists of the DSD of Minerals and Lands, and the Chief of the Branch of Solid Minerals. For

LBAs in the Powder River Coal Region the Associate District Manager (ADM) of Solid Minerals in the HPD also serves on the committee. For LBAs in the Green River-Hams Fork Region the ADM is replaced by a representative of the HD coal staff.

Lead Office: Joint project by the HPD or HD coal staff and the SO

Since there are considerations related to environmental issues, geology, engineering, economics and land ownership, this is a joint decision with participation by both the HPD or HD coal staff and the SO.

A public meeting and hearing is conducted to gather data and comments on the tract as applied by the applicant for FMV, and MER.

Data and issues identified in the public meeting and hearing, along with preliminary geology, engineering, and economic analysis are combined. This information is used to evaluate and potentially modify the tract nominated by the applicant. From this analysis, a preliminary tract is identified.

The SO identifies qualified surface owners (QSO) within the preliminary tract delineated (project area). The nominating company has an opportunity to negotiate with the QSO. Based on the results of the negotiations, the LBA team may meet again to consider QSO issues before finalizing the preliminary tract delineation. If the tract is redefined, the final tract delineation is presented before the CSC for approval or disapproval. A written tract delineation decision document is signed by the SD.

Staff: HPD or HD coal staff; Environmental Specialist, Mining Engineer, Geologist, Assistant District Manager Solid Minerals, or Field Manager, SO; Land Law Examiner, Economist, Appraiser, Coal Program Coordinator, Chief of Branch of Solid Minerals, Deputy State Director, State Director

6) Determine Fair Market Value and Maximum Economic Recovery

Determining the FMV and MER of the LBA tract is completed before the lease sale of the tract. Developing FMV is a shared responsibility between the HPD or HD coal staff and the SO. The items are discussed separately, but in practice require interaction throughout the process.

Lead Office: Joint project by the HPD or HD coal staff and the SO

HPD or HD coal staff:

The HPD or HD coal staff is responsible for conducting the hearing on FMV and MER, which is generally combined with a NEPA meeting. The HPD or HD coal staff compiles any information from the hearing along

with other sources of geologic and engineering information. The HPD or HD coal staff synthesizes all geologic and engineering data and develops geologic and engineering models for mining the LBA tract.

Staff: Environmental Specialist, Mining Engineer, Geologist, Assistant District Manager Solid Minerals or Field Manager

SO:

The SO uses the geologic and engineering reports developed by the HPD or HD coal staff and completes an economic model for the tract. MER is determined during this analysis in consultation with the HPD or HD coal staff. The output information from the geologic, engineering, and economic models is used as the basis for developing a pre-sale appraisal report. The pre-sale appraisal report is used to determine FMV.

Staff: Economist, Appraiser, Chief of Branch of Solid Minerals

7) Offer the Tract for Lease Sale

Lead Office: SO

The SO sets a lease sale date. Public notices for the lease sale, including FRNs, the detailed statement of the lease sale, posting the lease sale notice, and conducting the lease sale are the responsibility of the SO. The SO selects the lease sale panel members, documents the panel's findings, and notifies the Wyoming Governor and the applicant of the results of the lease sale.

Staff: Land Law Examiner, Coal Program Coordinator, Chief of Branch of Solid Minerals, Deputy State Director, State Director

Contributing Office: HPD or HD coal staff

The HPD or HD coal staff, when requested, provides staff to serve on the lease sale panel.

Staff: Engineer, Geologist, Assistant District Manager Solid Minerals

8) Lease Issuance

Lead Office: SO

The SO determines during the bid acceptance process if the apparent high bidder is qualified to hold the Federal coal lease. After the high bidder is determined to be the qualified high bidder and the bid is accepted, the Department of Justice (DOJ) is requested to conduct an antitrust review. The lease is held in abeyance

for 30-days after DOJ's receipt of the coal holdings information supplied by BLM or until DOJ advises the BLM if approval will or will not create or maintain a situation inconsistent with antitrust laws. If correspondence from DOJ identifies a problem, the lease is not issued until the problem is resolved. If no problem is identified or if there is no response from DOJ after 30 days, the lease is signed by the SD and associated information is entered in LR 2000. The HPD or HD coal staff, the Office of Natural Resources Revenue, and the lessee are notified of the lease issuance.

Staff: Land Law Examiner, Chief of Branch of Solid Minerals, State Director