

ATTACHMENT 2:
FINAL EIS COMMENT LETTERS
AND BLM RESPONSES

Majestic

Petroleum Operations, LLC
P.O. Box 580 Story, WY 82842
(307)683-2755 FAX (307)683-3136

cc: Julia Weaver
922 pk
6-30-04

June 15, 2004

Bureau of Land Management
Casper Field Office, Attn: Patricia Karbs
2987 Prospector Drive
Casper, WY 82604

Re: Comments on Final EIS West Hay Creek - WYW151634

Dear Sirs:

Majestic Petroleum disagrees with the BLM's findings in the Response to Majestic Petroleum Operations, LLC letter on Page H-3 of the Final EIS. The BLM states the estimate of economic reserves in the LBA area of 54,800 MCF. The seven wells in this immediate area which Majestic operates (3 in the LBA, 4 in the adjacent I-90 Exchange tract) have averaged 86,718 MCF in their 21 month life. The worst well has produced 55,202 MCF. The best has recovered 154,031 MCF to date. Average recovery to date is 86,718 MCF. At these production rates and the current rate of decline, these wells have many, many years of economic production left.

To allow this area to be mined through will cause a large economic loss to the mineral owners, operator and the State of Wyoming. Majestic has attempted to reach a settlement agreement with Triton, but have been unable to do so. We realize that the stipulations listed in Appendix D may be attached to the West Hay Creek LBA. However, we do not feel that those stipulations will protect us. We request that a stipulation be added to the LBA requiring a CBM Mitigation Agreement to be in place between the coal mine and the CBM operator prior to approval of the LBA.

Sincerely,



Michael R. Onstott
President

RECEIVED - BLM
JUN 17 2004
CASPER FIELD OFFICE



United States Department of the Interior

BUREAU OF LAND MANAGEMENT
Casper Field Office
2987 Prospector Drive
Casper, Wyoming 82604-2968

3425 (LBA)
WYW151634
(West Hay Creek)

SEP 10 2004

Michael R. Onstott
Majestic Petroleum Operations, LLC
P.O. Box 580
Story, WY 82842

RE: Comments on the Final Environmental Impact Statement (EIS)
for the West Hay Creek Coal Lease Application

Dear Mr. Onstott:

Thank you for providing additional information about coal bed natural gas (CBNG) production from wells completed on the West Hay Creek LBA Tract. As discussed in Chapter 4 of the EIS, the BLM Wyoming State Office Reservoir Management Group (WSO-RMG) estimated potential CBNG reserves in the West Hay Creek LBA tract as of 2000 1) by using decline curve analysis based on production histories of wells in section 18, T. 52 N., R. 72 W. and 2) by calculating estimated coal gas content using publicly available methane adsorption data, coal geology from coal drill holes, and hydrologic data from groundwater monitoring wells operated by the coal mines. As stated in the Final EIS (page 4-7), the results WSO-RMG obtained from the decline curve analysis compared favorably with the results obtained from estimating average CBNG gas content per ton for the tract, but we recognize that the reserves projected by both methods are estimates and are subject to a number of uncertainties in assessing CBNG resources.

There are several mechanisms that can be used to facilitate recovery of the CBNG resources prior to mining if the Federal coal in the tract is leased now:

- BLM will attach a Multiple Mineral Development stipulation to the Federal coal lease which states that BLM has the authority to withhold approval of coal mining operations that would interfere with the development of mineral leases issued prior to the coal lease.
- BLM has a policy in place on CBNG-coal conflicts (BLM Instruction Memorandum No. 2003-253), which directs BLM decision-makers to optimize the recovery of both resources and ensure that the public receives a reasonable return. This memorandum offers royalty incentives to CBNG operators to accelerate production in order to recover the natural gas while simultaneously allowing uninterrupted coal mining operations. In addition, this memorandum also states that it is the policy of the BLM to encourage oil and gas and coal companies to resolve conflicts between themselves; and when requested, the BLM will assist in facilitating agreements between the companies.

- Mining of the West Hay Creek LBA Tract cannot occur until the coal lessee has a permit to mine the tract approved by the Wyoming Department of Environmental Quality and a Mineral Leasing Act (MLA) mining plan approved by the Secretary of the Interior. Before the MLA mining plan can be approved, BLM must approve the Resource Recovery and Protection Plan for mining the tract. Prior to approving the Resource Recovery and Protection Plan, BLM can review the status of CBNG and conventional oil and gas development on the tract and the mining sequence proposed by the coal lessee. CBM is currently being produced by several wells on the West Hay Creek LBA Tract and several others are proposed for drilling. The permit approval process generally takes the coal lessee several years, during which time CBNG resources can continue to be recovered.

BLM believes that recovery of a substantial portion of the CBNG resources on the tract will be possible after lease issuance and that express terms of the proposed lease will protect the right of the holder of the first mineral lease issued for the tract.

If you have any further questions, please contact myself or Nancy Doelger at 307-261-7600.

Sincerely,



Assistant Field Manager, Solid Minerals

Lesley Collins

06/28/2004 11:38 AM

To: Mike Karbs/CFO/WY/BLM/DOI@BLM, Pat
Karbs/CFO/WY/BLM/DOI@BLM, Nancy
Doelger/CFO/WY/BLM/DOI@BLM

cc:

Subject: public comment on federal register of 6/17/04 vol 69 no 116 page 33936

----- Forwarded by Lesley Collins/CFO/WY/BLM/DOI on 06/28/2004 11:38 AM -----



jean public
<jeanpublic@yahoo.co
m>

06/26/2004 11:36 AM

To: casper_wymail@blm.gov

cc:

Subject: public comment on federal register of 6/17/04 vol 69 no 116 page 33936

us doi blm - wy 920-1320-el wyw151634
noa west hay creek lease eis - powder river coal

i have concern for the wildlife, birds being driven
out of their habitat and their lives crushed by this
kind of anti -environmental action. i oppose and
object to this leasing, drilling. i also want a fund
set up guaranteed before leasing that would guarantee
no holes or environmental leasing left when lease is
over. the american public should not be left with
environmentally damaged land and holes in the ground.
the lessee should provide an insurance guaranteed bond
fund that will GUARANTEE CLEAN UP.

B. SACHAU
15 ELM ST
FLORHAMPARK NJ 07932

Do you Yahoo!?

New and Improved Yahoo! Mail - Send 10MB messages
http://promotions.yahoo.com/new_mail



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Casper Field Office
2987 Prospector Drive
Casper, Wyoming 82604-2968

3425 (LBA)
WYW151634
(West Hay Creek)

SEP 1 0 2004

B. Sachau
15 Elm Street
Florhampark, NJ 07932

Dear B. Sachau:

Thank you for your interest in and comments on the Notice of Availability for the Final EIS for the West Hay Creek Coal Lease Application.

The West Hay Creek Federal coal tract was proposed for leasing by an existing adjacent surface coal mine (the Buckskin Mine) located north of Gillette, Wyoming. The tract is adjacent to existing leases for the Buckskin Mine. The existing mine has a mining and reclamation plan approved by the Wyoming Department of Environmental Quality, which includes a reclamation bond. The reclamation plan requires the mine to replace the overburden, stockpile the topsoil and replace it, restore basic drainage networks, restore jurisdictional wetlands, and re-establish vegetation using species mandated by the Department of Environmental Quality, the majority of which are native to this area. Following seeding with the final approved seed mixture, a minimum of ten years is required before the final reclamation bond is released. These measures are required by Wyoming State law and by the Federal Surface Mining Control and Reclamation Act. If the West Hay Creek LBA Tract is leased to the applicant, they will have to modify their existing mining and reclamation plan to include the new lease. This plan will be subject to the same State and Federal requirements and it must be approved before the Federal coal in the new lease can be mined.

Currently, the Buckskin Mine posts a Reclamation Performance Bond with the State of Wyoming in insure reclamation. This bond is reviewed and recalculated annually, and would be adjusted if Buckskin acquires and proposes to mine the West Hay Creek tract. Buckskin's current reclamation performance bond totals \$43 million.

If you would like more information about this coal lease application or would like to obtain a copy of the EIS, please contact Nancy Doelger or myself at the BLM Casper Field Office, 2987 Prospector Drive, Casper, WY 82604.

Sincerely,

Assistant Field Manager, Solid Minerals

WYOMING
GAME AND FISH DEPARTMENT



"Conserving Wildlife - Serving People"

July 7, 2004

WER 320.02
Bureau of Land Management
Casper Field Office
Final Environmental Impact Statement
West Hay Creek Coal Lease Application
Campbell County

Patricia Karbs
Casper Field Office
Bureau of Land Management
2987 Prospector Drive
Casper, WY 82604

CASPER FIELD
JUL 08 2004

Dear Ms. Karbs:

The staff of the Wyoming Game and Fish Department has reviewed the Final Environmental Impact Statement for the West Hay Creek Coal Lease Application within the Casper Field Office area. We provided terrestrial wildlife and aquatic comments in a letter dated April 23, 2003. We have no additional concerns.

Thank you for the opportunity to comment.

Sincerely,

A handwritten signature in cursive script that reads "Bill Wichers".

BILL WICHERS
DEPUTY DIRECTOR

BW:VS:as

cc: Kyndra Miller-Governor's Planning Office
USFWS



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8
999 18TH STREET - SUITE 300
DENVER, CO 80202-2466
<http://www.epa.gov/region08>

RECEIVED - BLM

JUL 19 2004

CASPER FIELD OFFICE

JUL 14 2004

Ref: 8EPR-N

Nancy Doelger
Casper Field Office
Bureau of Land Management
2987 Prospector Drive
Casper, WY 82600

Re: West Hay Creek Coal Lease Application
Final EIS, CEQ #040266

Dear Ms. Doelger:

The Region 8 Office of the Environmental Protection Agency has reviewed the *Final Environmental Impact Statement for the West Hay Creek Coal Lease By Application*. The Final Environmental Impact Statement (EIS) assesses the environmental impacts of a lease by application (LBA) tract known as the West Hay tract potentially to the Buckskin Mine operated by Triton Coal Company, LLC within the Wyoming Powder River coal basin. We submit the following comments in accordance with our responsibilities under Section 309 of the Clean Air Act.

Regional Air Quality Degradation EPA's main concern remains ambient air quality in the Powder River Basin (PRB). Coal mines are some of the many sources in the PRB contributing to air quality degradation. EPA continues to work with the BLM, the Wyoming Department of Environmental Quality (DEQ), and other stakeholders through an interagency working group established after the PRB Coalbed Methane EIS to address air quality concerns in the PRB. As we stated in our comments on the Draft EIS, while the Wyoming DEQ has by statute the authority and responsibility to implement air quality mitigation, BLM should have used the Final EIS to disclose any mitigation measures and their effectiveness for air quality impacts regardless of BLM's jurisdiction (CEQ 40 Questions #19b). It does not appear that BLM has responded since the EIS fails to specify the fugitive dust mitigation methods and effectiveness of these methods currently in use at the Buckskin mine.

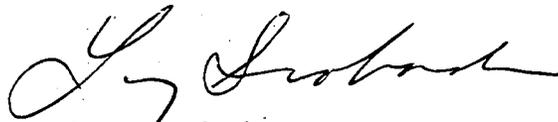
Nitrogen Dioxide Emissions from Blasting EPA appreciates the response to our concerns about the impacts of nitrogen dioxide (NO₂) emissions from blasting activities and understands the company has made progress in its efforts to reduce the number of blasts that produce NO₂ clouds. We continue to express a concern about controlling public

access by stopping vehicles and school buses to include those county roads that pass through the West Hay LBA area. EPA views this mitigation as less preferable than the mine's ongoing efforts to reduce or eliminate NO₂ emissions during blasting operations.

Lack of Mitigation of Nonjurisdiction Wetlands In our comments on the draft EIS, we indicated our concern regarding whether the 17.5 acres of jurisdictional wetlands and 7.6 acres of nonjurisdictional playa wetlands within the West Hay LBA area will be mitigated with timely and appropriate wetland replacement of equal value. BLM provided a response that the Corps of Engineers will require jurisdictional wetland mitigation but that BLM will not require mitigation for nonjurisdictional wetlands in the West Hay Creek LBA since this is a federally-owned tract of coal underlying private surface ownership. We realize the Corps will conduct its own jurisdictional review prior to mining likely at a much at a later date. However, before BLM completes its decision on this LBA, we request further review of BLM's obligation under the Executive Order 11990. Since all agencies are responsible to assure that their actions do not result in the net loss of wetlands at public-owned facilities, we think intent of the Executive Order would apply to federally-owned coal lands. We request that the BLM reconsider this determination especially in light of important functions provided by these wetlands playas for migratory bird habitat and hydrologic functions. We recommend that the BLM condition the West Hay Creek LBA to require mitigation of the 7.6 acres of playa wetlands that will be lost during mining.

We appreciate your interest in our comments. If you have any further questions, please contact Weston Wilson of my staff at (303) 312-6562.

Sincerely,



Larry Svoboda
 Director, NEPA Program
 Office of Ecosystems Protection
 and Remediation

cc: Dan Olsen, Wyoming DEQ, Cheyenne
 Floyd McMullen, OSM, Denver
 Chandler Peter, Corps of Engineers, Cheyenne
 Jeff Sorkin, Forest Service, Denver

RECEIVED - BLM
 JUL 19 2004
 CASPER FIELD OFFICE



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Casper Field Office
2987 Prospector Drive
Casper, Wyoming 82604-2968

3425 (LBA)
WYW151634
(West Hay Creek)

SEP 1 0 2004

Mr. Larry Svoboda
Office of Ecosystems Protection and Remediation
U.S. Environmental Protection Agency, Region 8
999 18th Street Suite 300
Denver, CO 80202-2466

Dear Mr. Svoboda:

The following comments have been prepared in response to the comments received from the Region 8 office of the Environmental Protection Agency on the *Final Environmental Impact Statement for the West Hay Creek Coal Lease Application*.

Regional Air Quality Degradation: The EIS (Chapter 3) discusses fugitive dust mitigation methods that are used by surface coal mines in the Powder River Basin, including the Buckskin Mine. The Buckskin Mine operates under WDEQ Air Quality Permit No. MD-707, which contains 22 specific permit conditions that the Buckskin Mine must comply with. These permit conditions include requirements to control fugitive dust emissions, maintain fugitive emission controls, monitor fugitive emissions, and report these activities. The Buckskin Mine also monitors adjacent air quality with two continuous R&P TEOM samplers.

Work has begun on a two-year technical study, funded by BLM, to assess current coal development, develop projections of expected future development, and develop data and modeled projects of the effects of projected surface coal mining in the PRB on key resource and social values. This study will include an evaluation of the options available to control mining-related particulate emissions. The results of this study will be available for future coal-leasing environmental analyses.

Nitrogen Dioxide Emissions from Blasting: We agree that efforts to reduce or eliminate NO₂ emissions during blasting operations are preferable to controlling public access to areas that may be exposed to blasting emissions. Generally, NO_x emissions are more prevalent at operations that use the blasting technique referred to as cast blasting, however, the Buckskin Mine does not use large cast blasts to move overburden. The Buckskin Mine has received no complaints in regard to NO_x blast emissions and has stated that its goal is to have complete combustion and no NO_x emissions.

Lack of Mitigation of Non-jurisdictional Wetlands: We have internally reviewed and discussed BLM's jurisdiction with respect to Executive Order 11990 in the case of coal leasing in a split estate situation (where the coal is Federally owned and the surface is privately owned) during preparation of previous coal leasing NEPA analyses and during the preparation of the South Powder River Basin Coal and West Hay Creek NEPA analyses.

As discussed in BLM's responses to comments received from EPA on the draft EIS, BLM does not authorize mining operations or reclamation operations. Specific reclamation plans and procedures are not being either proposed or approved during the leasing process; those plans and procedures are developed and approved after the Federal coal lease is issued.

Mining and reclamation operations are regulated in accordance with the Surface Mining Control and Reclamation Act, which is administered by the Office of Surface Mining Reclamation and Enforcement (OSM). In Wyoming, WDEQ/LQD has been authorized by the Secretary of the Interior to regulate surface coal mining operations and surface effects of underground mining on Federal and non-Federal coal lands, and OSM has oversight responsibilities. Once a Federal coal lease is issued, BLM's jurisdiction is limited to our responsibilities under the Mineral Leasing Act. On private surface, BLM's role in approving the mining and reclamation plan that authorizes mining operations on that Federal coal lease is limited to approval of the Resource Recovery and Protection Plan (R2P2) submitted by the lessee. BLM must approve the R2P2 prior to approval of the Mineral Leasing Act mining plan by the Assistant Secretary of the Interior. In order to approve the R2P2, BLM must make a determination that the proposed mining operation will achieve Maximum Economic Recovery of the Federal coal resources included in the lease [see 43 CFR 3482 (b)]. BLM is not part of the process that authorizes how mining and reclamation operations will be conducted on Federal coal leases; as a result, there is not an effective mechanism for BLM to enforce a lease stipulation that specifies how many acres of wetlands must be restored.

If there are BLM-administered surface lands included in a Federal coal lease, then, as the surface managing agency, BLM can prescribe conditions concerning the use and protection of the nonmineral interests in those lands. On BLM-administered surface lands, BLM would require that all impacts to wetlands of any kind be mitigated. However, there are no BLM-administered surface lands in the West Hay Creek LBA Tract and there have been no BLM-administered surface lands included in any of the twelve Federal coal leases issued since decertification of the Powder River Federal Coal Region in 1990.

The U.S. Army Corps of Engineers requires mitigation of all impacted jurisdictional wetlands in accordance with Section 404 of the Clean Water Act, and determines the number of acres to be restored. WDEQ/LQD required the restoration of some non-jurisdictional wetlands, depending on the values associated with the wetland; they require restoration of playas if they have hydrologic significance.

Under the Buckskin Mine's currently approved mining and reclamation plan (which does not include mining or reclamation operations on the West Hay Creek LBA Tract), 78 acres of wet meadow wetlands, 9 acres of emergent marsh wetlands, and 4 acres of permanent postmining impoundments will be reclaimed. This exceeds the replacement of 8 acres of wet meadow and 1 acre of impoundment currently required by the U.S. Army Corps of Engineers. If the Buckskin Mine acquires a lease for the West Hay Creek LBA Tract, they have indicated they will revise their reclamation plan to include the reclamation of additional wetland habitat.

The Buckskin Mine has a permitted plan to reclaim a 15 acre playa in their reclamation and numerous small, shallow playas. The surface mining of coal in the Powder River Basin generally results in a lowering of the topography due to the removal of 70 to 100 feet of coal. According to the mine, establishment of jurisdictional as well as non-jurisdictional wetlands in this topography will not be problematic and no net loss of wetlands is expected to occur.

If you have any further questions, please contact Nancy Doelger or myself at 307-261-7600.

Sincerely,

A handwritten signature in black ink, appearing to read "Mike Kurb". The signature is fluid and cursive, with the first name "Mike" and last name "Kurb" clearly distinguishable.

Assistant Field Manager, Solid Minerals