

ATTACHMENT 2:

**COMMENT LETTERS THAT
SPECIFICALLY REFERENCE
THE WEST ROUNDUP LBA TRACT
(WYW151134)
AND BLM RESPONSES**



M & K OIL COMPANY

P.O. Box 3470 • Gillette, Wyoming 82717-3470 • (307) 682-8047 • Fax (307) 686-6300

RECEIVED - BLM

JAN 23 2004

CASPER FIELD OFFICE

January 19, 2004

BLM
2987 Prospector Drive
Casper, WY 82604
Attn: Nancy Doelger

Dear Mrs. Doelger;

M&K Oil Company, Inc. (M&K) is the owner and operator of Henderson #1. This is a fee oil and gas well located in T42N, R70W, Section 7: SENW and falls within the boundary of the West Roundup LBA tract as proposed by Triton's North Rochelle Mine. This well has been producing since November of 1972 and continues to produce oil and gas in paying quantities from the Muddy formation.

As proposed, this LBA will necessitate the removal of the well and the gas sales line serving the well prior to coal being removed from the area. To date, there have been no negotiations between M&K and Triton to resolve this conflict.

M&K is using this comment opportunity to state that there is a direct conflict between the operation of the Henderson well and the proposed West Roundup LBA. As you know, surface coal mining operations are required to minimize disruption of services provided by facilities such as the Henderson well, unless otherwise approved by the owner (M&K). Therefore a "mine through" agreement approving disruption of our operations and services is required between M&K and the eventual lessee of this coal lease.

Thank you for this opportunity to comment on this lease.

Sincerely,

A handwritten signature in black ink that reads "Jim McLeland". The signature is written in a cursive style and is positioned above the printed name.

Jim McLeland, President
M&K Oil Company, Inc.



United States Department of the Interior

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

3425(LBA)
WYW151134
West Roundup

MAY 12 2004

M & K Oil Company
Attn: Jim McLeland
P.O. Box 3470
Gillette, WY 82717-3470

RE: January 19, 2004 Comments on the Final South Powder River Basin Coal
Environmental Impact Statement (EIS)

Dear Mr. McLeland:

We have reviewed the comments you provided related to your fee conventional oil and gas well, the Henderson #1, which is located on the West Roundup LBA Tract (WYW151134), applied for by Triton Coal Company LLC, operator of the North Rochelle surface coal mine. The EIS identifies the presence of the Henderson well and several other producing conventional oil and gas wells on the LBA Tract (Figure 3-17, page 3-65) and recognizes that optimal recovery of both coal and oil and gas resources requires negotiation and cooperation between the oil and gas lessees and the coal lessees (p. 4-82). These negotiations must take place before the Federal coal can be removed.

If you have any questions or would like to discuss your concerns further, please contact Nancy Doelger at (307) 261-7627.

Sincerely,

Assistant Field Manager, Solid Minerals

DUCKER, MONTGOMERY, LEWIS & ARONSTEIN, P.C.

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JAMES K. ARONSTEIN
E-mail: jaronstein@denverlaw.com

January 23, 2004

VIA CERTIFIED MAIL – RETURN RECEIPT REQUESTED,
FACSIMILE: (307) 261-7587 AND
EMAIL: casper_wymail@blm.gov

Bureau of Land Management
Casper Field Office
Attn: Nancy Doelger
2987 Prospector Drive
Casper, Wyoming 82604

Re: Final South Powder River Basin Coal Environmental Impact Statement

Gentlemen and Ms. Doelger:

This firm represents Bill Barrett Corporation (“BBC”). This letter is written in order to set forth certain comments with respect to the Final South Powder River Basin Coal Environmental Impact Statement (the “FEIS”), particularly insofar as the FEIS relates to Triton Coal Company LLC’s West Roundup LBA (WYW 151134) (the “West Roundup LBA”).

On behalf of BBC and by letter dated June 9, 2003 (the “2003 Letter”), we previously submitted comments with respect to the West Roundup LBA. The 2003 Letter enclosed and incorporated by reference extensive comments on the West Roundup LBA contained in a fifteen page letter to the BLM dated October 8, 2001 (the “2001 Letter”). The 2003 Letter and a brief response thereto was included in Appendix M to the FEIS. However, the 2001 Letter (which was appended to and incorporated into the 2003 Letter) was not included in the FEIS. Moreover, as further discussed below in this letter, the FEIS fails to address myriad and important issues raised in the 2001 Letter. The 2001 Letter and the 2003 Letter are appended hereto and incorporated herein by reference and the statements set forth therein constitute part of our comments on the FEIS, regardless of whether or not expressly reiterated in this letter.

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Attn: Nancy Doelger
January 23, 2004
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BBC has an extensive CBM development program in and around the West Roundup LBA. Certain CBM wells in the program, which are not on lands administered by the United States Forest Service ("USFS"), have already been drilled. However, a significant portion of the CBM well sites in BBC's program are situated within the boundaries of the Thunder Basin National Grass Lands, which are administered by the USFS. The drilling of these wells awaits approval by the USFS of the Big Porcupine Environmental Assessment (the "EA"). BBC and its predecessor in interest (Independent Production Company) have been seeking approval of the EA since 2001. We understand that the EA has been submitted for approval and is currently in the comment period.

The 2001 Letter and the 2003 Letter explained that surface coal mining within the West Roundup LBA will destroy the reservoir in which the CBM resides and cause the irretrievable venting and waste of the CBM reserves, both within the LBA tract and for several miles around it. The CBM and the oil and gas lessee's vested senior property rights will be devastated. Surface coal mining within the West Roundup LBA will directly and indirectly impact the production of CBM from numerous well sites. Several well sites will be physically consumed by the proposed surface coal mining operations. The ability to produce CBM from well sites on adjoining lands will also be severely prejudiced by the loss of reservoir pressure and the drainage, migration and venting of CBM resulting from the mining of the LBA Tract.

Pursuant to the FEIS, the BLM has selected a preferred alternative for the West Roundup LBA Tract that significantly expands the area to be leased for coal mining [FEIS at 2-33 & 34, ES 9]. As a result, myriad additional CBM well sites will be directly and indirectly impacted. The FEIS does not adequately examine the additional number of CBM wells and the additional volume and value of CBM reserves that will be lost as a result of this expansion of the West Roundup LBA.

The 2001 Letter identifies and examines various legal authorities which clearly establish that, due to the impermissible, unavoidable and substantial adverse impacts to the senior oil and gas lessee, the West Roundup LBA Tract cannot validly be leased for surface coal mining at the present time. These authorities and the issues that they raise have not been adequately addressed in the FEIS.

For example, the 2001 Letter noted that, pursuant to applicable regulations of the BLM, coal leases cannot be sold unless such a sale is consistent with the governing BLM land use plan [2001 Letter at 10]. The 2001 Letter further noted that the BLM's land use plan covering the LBA Tract, the Buffalo Resource Management Plan issued in 1985 (the "1985 Buffalo RMP"), states that the BLM must "defer coal leasing in producing oil and gas fields unless or until coal

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development will not interfere with the economic recovery of the oil and gas resources..." The FEIS acknowledges that coal leasing decisions must be consistent with the governing land use plan [FEIS at 1-20] and further acknowledges the ongoing validity of the 1985 Buffalo RMP [FEIS at 1-23]. The FEIS also acknowledges that: (i) under the 1985 Buffalo RMP, coal leasing in producing oil and gas fields should be deferred until coal development will not interfere with economic recovery of the oil and gas resource [FEIS at 1-23]; (ii) CBM is currently being produced within the West Roundup LBA Tract [FEIS at 3-8 and 4-15]; and (iii) surface coal mining will result in the irretrievable loss of CBM [FEIS at E5-17 and 4-99]. Nevertheless, the FEIS inexplicably concludes that a decision to issue a coal lease for the LBA Tract would be in conformance with the existing land management plan [FEIS at 1-24].

The FEIS repeatedly attempts to justify the immediate leasing of the LBA Tract by arguing that "mining cannot occur until the lessees have approved mining and reclamation permits and MLA mining plans, which generally takes several years" and asserting that "[t]his would allow time for a large portion of the CBM resources to be recovered from these tracts" [FEIS at 2-44]. Such assumptions are not appropriate. Potential permitting delays should never be countenanced as inevitable. The anticipated delays are not consistent with statements by the coal companies that they intend to mine the LBA Tracts on a fast track schedule. The FEIS analysis also ignores the fact that near term mining of the LBA Tract will cause the drainage loss of CBM reserves from adjoining tracts before such reserves can be recovered. In asserting that a substantial portion of the CBM reserves can be recovered prior to the mining of the LBA Tracts, the FEIS apparently assumes that CBM recovery can and will commence immediately. In fact, CBM recovery can itself be delayed for years due to permitting delays and the need for pipeline construction and other support infrastructure. For example, as noted above in this letter, BBC (and its predecessor in interest) have been seeking approval by the USFS of the Big Porcupine EA for approximately three years and BBC is still awaiting required approvals to drill.

The 2001 Letter emphasizes that surface coal mining within the West Roundup LBA Tract will result in the venting and loss of CBM not just within that LBA Tract itself, but also from surrounding lands due to resulting decreases in reservoir pressure, gas drainage and migration and venting at the coal mine face. The 2001 Letter noted that studies indicate that surface coal mines in the Powder River Basin drain and vent CBM from more than five miles away. The 2001 Letter emphasizes that the BLM must quantify and value the CBM resource that will be irretrievably lost, not just from the West Roundup LBA Tract but from surrounding lands as well, if surface coal mining operations are allowed to proceed prior to the full and final recovery of the CBM resource.

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The FEIS makes only a cursory effort to quantify the volume of CBM contained within the West Roundup LBA Tract (FEIS at 4-16). It makes no effort whatsoever to quantify or value the CBM resource that will be lost from surrounding lands as a result of drainage and venting. As noted in the 2001 Letter, without an accurate and reliable estimate of the volume and value of the CBM resource that will be lost, the BLM cannot possibly understand the economic and environmental implications of the various alternatives considered.

One of the essential purposes of an environmental impact statement ("EIS") under the National Environmental Policy Act of 1989 ("NEPA") is to provide agency decision makers with the studies and information necessary to choose prudently between possible alternative courses of action. Without analyzing the volume and value of CBM that will irretrievably be lost through drainage and venting, the FEIS clearly does not satisfy this fundamental purpose of NEPA.

The FEIS acknowledges that surface coal mining in the Powder River Basin has already caused the irretrievable loss through drainage of massive amounts of CBM (FEIS at 4-14). However, the FEIS makes no effort whatsoever to determine the additional amount and value of CBM that will be lost through drainage as a result of the proposed surface coal mining that is the subject of the FEIS.

The FEIS attempts to dodge its responsibility to quantify anticipated CBM drainage losses by stating that drainage "will continue whether or not [the LBA tracts] are leased and mined." While some degree of drainage will continue regardless of additional coal leasing and mining, such additional coal leasing and mining will clearly impact the rate, geographic reach and ultimate extent of CBM drainage losses. It is the unfulfilled responsibility of the FEIS to analyze and quantify such drainage losses.

The FEIS turns on its head the requirement of NEPA that an EIS must analyze cumulative impacts. The FEIS repeatedly takes the approach that past coal mining in the Powder River Basin has been so extensive and its effects so pervasive that the impacts of a newly proposed LBA need not be rigorously analyzed because such incremental impacts will be relatively small. In this manner, the quantification and analysis of CBM drainage losses caused by coal mining has been passed over from one individual coal EIS to the next. As a result, agency officials have never developed a comprehensive plan and policy to issue coal leases in the Powder River Basin in a manner and at a rate that will minimize the loss of CBM reserves. In such a situation, NEPA requires that the cumulative impacts of the proposed action (i.e., CBM drainage losses anticipated as a result of the proposed coal LBAs) and prior actions (i.e., CBM drainage losses

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caused by past coal leasing and mining) must be analyzed so that a comprehensive and logical policy to deal with this important issue may be developed by the agency.

The 2001 Letter also notes that methane is a greenhouse gas that contributes significantly to global warming and that, if coal mining is allowed to proceed prior to the recovery of the CBM resource, a substantial amount of methane will be vented into the atmosphere. The 2001 Letter emphasizes that the amount of methane that would be vented and the effects of such venting on the environment need to be quantified, analyzed and understood.

Instead, the FEIS deals with this issue in an inadequate, cursory and dismissive manner, similar to its handling of CBM drainage losses. The FEIS briefly acknowledges that methane is a greenhouse gas that contributes to global warming but then goes on to assert that surface coal mining in the Powder River Basin accounts for only 0.98 percent of the estimated U.S. anthropogenic methane emissions, as if to imply that a reduction of such incremental emissions does not warrant analysis, quantification and consideration. [FEIS at 4-127 & 128] The FEIS further asserts that delaying coal mining until the CBM resource is recovered would not reduce methane emissions because overall coal production would not be reduced (i.e., substitute sources of coal would be mined to meet current demand). This approach ignores the obvious long term benefits of recovering the methane from the LBA Tract before it is mined. NEPA requires a consideration of such long term objectives and an analysis of the tradeoffs between short term benefits and long term environmental consequences.

The 2001 Letter also focused on the loss of CBM as a clean-burning fuel. It noted that, to the extent that CBM is not captured prior to mining, some fuel other than CBM must be burned or utilized to meet society's energy needs and that the replacement fuel is unlikely to burn as cleanly or be as benign to the environment as CBM. Accordingly, the 2001 Letter urged that "the loss of CBM as a clean-burning fuel, its replacement with a substitute energy product and the effect of such substitution in the environment need to be quantified, analyzed and understood." [2001 Letter at 12]. The FEIS provides no such analysis.

While the FEIS briefly identifies certain of the issues discussed above, it fails to provide the detailed analyses, studies and discussion required by NEPA and needed by the BLM to develop sensible plans and policies with respect to the recovery of CBM in advance of surface coal mining operations. The FEIS too often assumes its own conclusion that the proposed coal leases should be issued and fails to consider the impacts thereof and alternatives thereto in a meaningful and constructive way.

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Attn: Nancy Doelger
January 23, 2004
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We hope that these comments are helpful to you. If you have any questions or comments, or wish to discuss any aspect of this matter further, please do not hesitate to contact the undersigned. Thank you for your time and consideration.

ATTORNEYS FOR BILL BARRETT CORPORATION

DUCKER, MONTGOMERY, LEWIS & ARONSTEIN

By: 
James K. Aronstein

JKA/dr
Encl.

cc: Mr. William C. Mitchell

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3425(LBA)
WYW151134
West Roundup

MAY 12 2004

Ducker, Montgomery, Lewis and Aronstein, P.C.
Attn: James K. Aronstein
1560 Broadway, Suite 1400
Denver, CO 80202

RE: January 23, 2004 Comments Received from Ducker, Montgomery, Lewis & Aronstein, P.C., on the Final South Powder River Basin Coal Environmental Impact Statement (EIS)

Dear Mr. Aronstein:

The BLM has reviewed the comments you provided regarding the concerns of your client, Bill Barrett Corporation with respect to Triton Coal Company LLC's West Roundup LBA Tract (WYW151134), and offers the following information in response.

Comment: *"However, the 2001 Letter (which was appended to and incorporated into the 2003 letter) was not included in the FEIS.*

Response: The referenced 2001 letter, which is part of the administrative record for the South Powder River Basin Coal EIS, was received during the scoping period for the EIS, which extended from October 1 through October 31, 2001, as discussed in Section 1.5 of the EIS. Scoping comments are not printed in the EIS, but are reviewed and considered to be items that need to be addressed in the preparation of the EIS. A list of issues and concerns that were identified during the scoping period is present in Section 1.5 of the EIS, and includes the concern with potential conflicts with and existing and proposed CBM development described in your 2001 letter. The potential conflicts with CBM development and loss of CBM reserves are addressed in the "Mineral Resources" and "Ownership and Use of Land" sections of both Chapters 3 and 4 of the EIS.

Comment: *However, a significant portion of the CBM well sites in BBC's program are situated within the boundaries of the Thunder Basin Nation Grass Lands, which are administered by the USFS. The drilling of these wells awaits approval by the USFS of the Big Porcupine Environmental Assessment (the "EA"). BBC and its predecessor in interest (Independent Production Company) have been seeking approval of the EA since 2001. We understand that the EA has been submitted for approval and is currently in the comment period.*

Response: The *Decision Notice and Finding of No Significant Impact* for the Big Porcupine Coal Bed Methane Project was signed by the Forest Supervisor for the Medicine Bow-Routt National Forest and Thunder Basin National Grassland on April 23, 2004.

Comment: *The 2001 Letter and the 2003 Letter explained that surface coal mining within the West Roundup LBA will destroy the reservoir in which the CBM resides and cause the irretrievable venting and waste of the CBM reserves, both within the LBA tract and for several miles around it.*

Response: The EIS discusses the effects of surface coal mining on both the CBM reservoir in the area that is being mined and the CBM reserves in adjacent areas. For example:

“The predominant CBM production to date has occurred from coal beds of the Wyodak-Anderson zone in seams known as the Anderson, Canyon, Wyodak, Big George, and other locally-used names. These are the same (or equivalent) seams that are being mined along the eastern margin of the basin by the mines that are included in this analysis.” (FEIS, p. 3-7 & 8)

“Provisional production decline curves for some of the wells with the lengthiest production histories suggest that the expected life for wells located on or near the SPRB LBA tracts might range from one to five years. These wells demonstrate that CBM can be produced in areas that have been affected by mining-related groundwater drawdown.” (FEIS, p. 3-72)

“CBM resources that are not recovered prior to mining would be irretrievably lost when the coal is removed.” (FEIS, p. 4-13)

“Implicit in the analysis conducted by WSO-RMG is the observation that coal mining and mine-related dewatering affects CBM resources and development potential. As described, water production from the coal seams is required to reduce hydrostatic pressure in the coal seams so that methane can desorb from the coals for production. Mine-related dewatering of the coal seams has the same effect of reducing hydrostatic pressure and methane desorption. The preliminary CBM reservoir models indicate that depletion of the hydrostatic pressures and methane resources has occurred adjacent to mining areas since not long after mining began and continues to the present time. Based on the methane adsorption/pressure analyses prepared for the General Analysis Area, the preliminary model shows that as much as 60 percent of the original in-place CBM resources in the LBA areas may have been depleted between 1982 and 2000. This effect will be enhanced as mining continues to proceed toward the LBA tracts and will continue whether or not they are leased and mined. The short productive life inferred for CBM wells in the LBA areas suggests that wells which are completed early could recover substantial portions of the remaining reserves prior to any mining within the LBA tracts.” [FEIS, p. 4-14, WSO-RMG is BLM’s Reservoir Management Group, which conducted an analysis of CBM resources in the General Analysis Area for use in the EIS. This discussion is followed (p. 4-14 through 4-16) by a description of the CBM development and estimates of CBM reserves in each tract as of 2000.]

“In the PRB, CBM is being produced from the coal areas adjacent to and generally downdip of the mines. CBM is currently being produced from the same coal seams that would be mined in all five of the LBA tracts considered in this EIS. As discussed in Section 4.1.2 of this EIS, BLM estimates that a large portion of the CBM reserves could be recovered prior to initiation of mining activity on the LBA tracts under the Proposed Action and other alternatives considered in this EIS. CBM reserves that are not recovered prior to mining would be vented to the atmosphere.” (FEIS, p. 4-128)

“Mining the coal prior to recovery of all of the CBM resources releases CBM into the atmosphere.” (FEIS, p. 4-150)

The ground water monitoring data that have been collected by the coal mines in this area since 1980 indicate that the area of five foot groundwater drawdown in the coal aquifer extended to the western edge of the West Roundup LBA Tract in 1995 (see shaded area on attached Figure 1). Between 1995 and 2000, the area of five feet of drawdown was extended several townships beyond the western edge of the West Roundup LBA Tract (see shaded area on attached Figure 2). This significant increase in the area of five-foot drawdown in the coal between 1995 and 2000 reflects the influence of both CBM development and surface coal mining on the groundwater level in the coal in the General Analysis Area during that time frame.

Comment: The ability to produce CBM from well sites on adjoining lands will also be severely prejudiced by the loss of reservoir pressure and the drainage, migration, and venting of CBM resulting from mining of the LBA Tract.

Response: The EIS recognizes that surface coal mining has affected reservoir pressure and depleted CBM resources in the adjacent areas, including the LBA Tracts. As mentioned above, a CBM resource analysis for the General Analysis Area prepared by the WSO-RMG, which discusses the impact that surface coal mining has had on the CBM resource since mining was initiated in this area, is summarized in Section 4.1.2.1 of the Final EIS. As indicated in the excerpts above, according to WSO-RMG’s analysis, preliminary CBM reservoir models in this area indicate that depletion of the hydrostatic pressures and methane resource has occurred adjacent to mining area since not long after mining began and continues to the present time. Based on the methane adsorption/ pressure analyses prepared for the General Analysis Area, the preliminary model shows that as much as 60 percent of the original in-place CBM resources in the LBA areas may have been depleted between 1982 and 2000.

Comment: Pursuant to the FEIS, the BLM has selected a preferred alternative for the West Roundup BLA Tract that significantly expands the area to be leased for coal mining (FEIS at 2-33 & 34, ES-9). As a result, myriad additional CBM sites will be directly and indirectly impacted.

Response: The West Roundup LBA Tract as applied for included approximately 1,870 acres. Under BLM’s Preferred Alternative, approximately 942 acres would be added, which increases the size of the tract by approximately 53 percent. As discussed on page 2-32 of the FEIS, most of the lands that would be added under the Preferred Alternative (up to about 782 of the 942

acres that would be added) lie within a Forest Service special use permit and are unsuitable for mining under Unsuitability Criterion 2. These lands are occupied by a county road and the railroad spur and mine facilities for the North Rochelle Mine. These facilities (road, railroad spur, and mine facilities) would have to be moved before the coal underneath them could be determined to be suitable for mining. It would not be economically feasible to move these facilities to remove the coal at this time. BLM's Preferred Alternative includes this area because it may be possible to recover portions of the coal reserves adjacent to the Forest Service Special Use Permit when the rest of the coal in the tract is mined, and because it may become economically feasible at some point in the future to move the road, railroad spur, and mine facilities, terminate the Forest Service Special Use Permit, and recover the coal, if it is leased. In the foreseeable future, CBM development would only be directly and indirectly affected by surface coal mining on approximately 159 of the 942 acres added to the lease under the preferred alternative. Coal bed methane wells have been drilled on a private oil and gas lease that includes approximately 120 of those acres. CBM development would be foreseeably affected by mining on the remaining 39 acres added to the tract under the Preferred Alternative. At most, this would represent one spacing unit for a coal bed methane well.

Comment: *For example, the 2001 Letter noted that, pursuant to applicable regulations of the BLM, coal leases cannot be sold unless such a sale is consistent with the governing BLM land use plan (2001 Letter at 10). The 2001 Letter further notes that the BLM's land use plan covering the LBA Tract, the Buffalo Resource Management Plan issued in 1985 (the 1985 Buffalo RMP), states that the BLM must "defer coal leasing in producing oil and gas field unless or until the coal development will not interfere with the economic recovery of the oil and gas resources..." The EIS acknowledges that coal leasing decisions must be consistent with the governing land use plan and further acknowledges that: (i) under the 1985 Buffalo RMP, coal leasing in producing oil and gas fields should be deferred until coal development will not interfere with economic recovery of the oil and gas resource (FEIS at 1-23); (ii) CBM is currently being produced within the West Roundup LBA Tract (FEIS at 3-8 and 4-15); and (iii) surface coal mining will result in the irretrievable loss of CBM (FEIS at ES-17 and 4-99). Nevertheless, the FEIS inexplicably concludes that a decision to issue a coal lease for the LBA Tract would be in conformance with the existing management plan (FEIS at 1-24).*

Response: The EIS explains the decision to issue a coal lease in terms of satisfying the regulatory requirements cited in your 2001 letter and others (43 CFR 3420.1-4, 43 CFR 3420.1-8, 43 CFR 3425.2 and NEPA) as follows.

- It identifies (FEIS page 1-20) that the BLM *Approved Resource Management Plan for Public Lands Administered by the Bureau of Land Management Buffalo Field Office*, an update of the 1985 Buffalo RMP, governs and addresses the leasing of federal coal in Campbell County, which is the location of the West Roundup LBA Tract.
- It explains (FEIS page 1-23) that the 2001 BLM Buffalo RMP update did not recommend changes to existing 1985 Buffalo RMP Decision MM-5, which recommended deferring coal leasing in producing oil and gas fields until coal development would not interfere with economic recovery of the oil and gas resources, as determined on a case by case basis (emphasis added). [The decision in the 2001 Buffalo RMP Update states: "Coal leasing in producing oil and gas fields would be deferred unless or until coal development

would not interfere with the economic recovery of the oil and gas resources. This would be determined on a case-by-case basis.”]

- It discusses (FEIS page 1-23) the October 25, 2000 public meeting in Cheyenne at which the Powder River Regional Coal Team (PRRCT) reviewed the lease applications evaluated in the FEIS, heard presentations from oil and gas lessees who might be affected by leasing the LBA tracts regarding deferring coal leasing, and recommended that the BLM process the lease applications. Subsequently, the BLM Wyoming State Director reviewed the recommendations of the PRRCT and the BLM analyses of the coal and CBM resources in the area (including the technical information discussed below) and determined that, based on his case by case review of the situation, the applications should be processed.
- It discloses that CBM resources that are not recovered prior to mining (emphasis added) would be vented to the atmosphere and permanently lost (FEIS pages ES-17, 4-99, and 4-158).
- It discusses (FEIS page 1-23 and 1-24) how the Wyoming BLM is addressing agency policy on conflicts between CBM and coal operators by encouraging CBM operators whose leases may be affected by surface coal mining to develop and recover CBM resources.
- It explains (FEIS page 1-20 through 1-23) that the tracts being considered for leasing in the South Powder River Basin Coal EIS have been subjected to the four required coal planning screens and are considered acceptable for further consideration for leasing.

The EIS explains the technical data available on the CBM resource in the General Analysis Area as follows.

- It summarizes the results of the WSO-RMG CBM resource analysis in the General Analysis Area (FEIS pages 4-13 through 4-16), which concludes that as much as 60 percent of the original in-place CBM resource in the LBA areas may have been depleted between 1982 and 2000, that this effect will be enhanced as mining continues to proceed toward the LBA Tracts and will continue whether or not they are leased and mined, and that the short productive life inferred for CBM wells in the LBA areas suggests that wells which are completed early could recover substantial portions of the remaining reserves prior to any mining within the LBA Tract.
- It presents data in support of this conclusion by showing the extent to which surface coal mining operations on existing coal leases and CBM development in the surrounding area have already lowered groundwater levels, and thereby reduced the hydrostatic pressure in the coal beds in the LBA tracts as of 2000 (see attached Figure 2, which is Figure 4-14 in the EIS).

Comment: *Potential permitting delays should never be countenanced as inevitable.*

Response: The mining companies are required to get approval of a permit to conduct mining operations by the State of Wyoming and approval of a MLA mining plan by the Assistant Secretary of the Interior prior to mining any leases they acquire (FEIS p. 1-19). This is not a potential permitting delay; it is a regulatory requirement involving baseline data collection, review of and concurrence with a detailed mining and reclamation plan by multiple agencies, a technical review by the WDEQ, and opportunities for public review and comment. For example,

the North Rochelle Mine acquired Federal coal lease WYW127221 on January 1, 1998, submitted a permit application package for a permit revision for the North Rochelle Mine to conduct operations on the new lease on February 22, 2000, and the mining plan revision was approved by the Assistant Secretary of the Interior on April 2, 2003. Mining operations moved onto Federal coal lease WYW12722 toward the end of 2003, almost six years after the lease was issued.

Comment: *The anticipated delays are not consistent with statements by the coal companies that they intend to mine the LBA Tracts on a fast track schedule.*

Response: As discussed in Section 1.1 of the EIS, the applicant mines for the five LBA Tracts being considered for leasing have estimated that their existing recoverable reserves will be depleted in from 6.7 to 24 years at their anticipated annual production rates. They have applied for additional coal in advance of when it is needed in anticipation of the time that is needed to acquire a lease and complete the permitting process, as discussed above.

Comment: *The FEIS analysis also ignores the fact that near term mining of the LBA Tract will cause the drainage loss of CBM reserves from adjoining tracts before such reserves can be recovered.*

The 2001 Letter emphasizes that surface coal mining within the West Roundup LBA Tract will result in the venting and loss of CBM not just within the LBA Tract itself, but also from surrounding lands due to resulting decreases in reservoir pressure, gas drainage and migration and venting at the coal mine face.

Response: As discussed above, the EIS acknowledges that CBM reserves on the LBA tracts have already been depleted by mining operations on the existing coal leases and CBM development in this area and that this effect will continue whether or not the federal coal tracts are leased and mined.

Comment: *The 2001 Letter emphasizes that the BLM must quantify and value the CBM resource that will be irretrievably lost, not just from the West Roundup LBA Tract but from surrounding lands as well, if the surface coal mining operations are allowed to proceed prior to the full and final recovery of the CBM resource.*

The FEIS acknowledges that surface coal mining in the Powder River Basin has already caused the irretrievable loss through drainage of massive amounts of CBM (FEIS 4-14). However, the FEIS makes no effort whatsoever to determine the additional amount and value of CBM that will be lost through drainage as a result of the proposed surface coal mining that is the subject of the FEIS.

It is the unfulfilled responsibility of the FEIS to analyze and quantify such drainage losses.

Response: The FEIS quantifies the loss of CBM reserves due to mining through the year 2000 and the estimated remaining CBM reserves on each tract by:

- summarizing the results of the CBM reservoir modeling analysis and methane adsorption/pressure analyses prepared by WSO-RMG (FEIS, pages 4-13 through 4-16 discussed above) which concluded that depletion of the hydrostatic pressures and methane reserves has occurred adjacent to mining areas since not long after mining began and continues to the present time; that, as much as 60% of the original in-place CBM resources in the LBA areas were depleted between 1982 to 2000; that this effect has continued since 2000 and will be enhanced as mining proceeds toward the LBA areas; and that this depletion will continue whether or not the LBA Tracts are leased or mined as a result of mining operations and CBM development on the adjacent lands; and estimating coal gas content and recoverable CBM reserves on each LBA tract as of the year 2000 (FEIS pages 4-14 through 4-16).

The EIS also recognizes that monitoring of groundwater levels in the coal indicates that CBM development in the General Analysis area is affecting CBM reserves in the area. FEIS Figure 4-14 (attached figure 2), shows the area of five-foot drawdown (and therefore the area of depletion of hydrostatic pressure in the coal) in 2000 and notes that CBM production has significantly affected the extent of drawdown in the area. As discussed above, since 1995, the loss of CBM reserves on undrilled portions of the General Analysis Area has not been due to surface coal mining operations alone; CBM development has contributed and is contributing to this loss. This conclusion is substantiated by comparison of area of five foot drawdown measured in the coal in 1995, after 15 years of mining but in the early stages of CBM development in the General Analysis Area (see attached Figure 1), with the area of five foot drawdown measured in the coal after 20 years of mining and five years of increasing CBM development in the area (see attached Figure 2, which is also FEIS Figure 4-14). This comparison shows that the area of measured five-foot drawdown was expanded more in the five years after CBM development moved into this area than it had been during 15 years of coal mining previous to 1995. The losses of the CBM reserves prior to 1995 are primarily attributable to surface coal mining operations; however, losses since 1995 are attributable to both surface coal mining and CBM development and the proportion of those losses attributable to CBM development is increasing as production continues in the area. Surface coal mining operations on the LBA Tracts will not occur for several years, at best, and depletion of the CBM reserves will continue, due to increasing CBM production as well as advancing surface coal mining operations, during that time.

Prior to 1995, mining operations at the mines included in the South Powder River Basin Coal EIS were primarily located on the original federal coal reserves leased by the mines included in the South Powder River Basin Coal EIS. These original Federal coal leases were issued in 1966 or before, prior to the issuance of many, although not all, of the oil and gas leases on the LBA tracts. As shown in attached Figure 1, the area of greater than five foot measured drawdown in the coal already encompassed most of the area applied for in South Powder River Basin LBA tracts by 1995. Accordingly, the reductions in hydrostatic pressure in the coal and associated depletion of the CBM resources on the LBA Tracts shown in attached Figure 1 were caused by approved surface coal mining operations on federal coal leases issued in 1966 or before.

BLM has a policy on conflicts between CBM and surface coal mine development in the Powder River Basin, as outlined in BLM Instruction Memorandum No. 2003-253, dated August 21, 2003. The goals of this policy are to optimize the recovery of both resources in an endeavor to

secure the maximum return to the public in revenue and energy production, prevent avoidable waste of the public's resources using existing statutes, regulations, and lease terms, honor the rights of each lessee, subject to the terms of the lease and sound principles of resource conservation and protect public health and safety, and mitigate environmental impacts. As one means of achieving these goals, BLM is establishing a Conflict Administration Zone (CAZ) around each active coal mine or LBA area. CBM operators within the CAZ are to be notified about near-future mining activities, BLM's authority to require proper and timely development of leased resources, and the potential availability of incentives such as a royalty rate reduction to encourage development. A 50 percent royalty rate reduction may be offered to oil and gas lessees if those lessees agree to expedite CBM development and to abandon wells and facilities at BLM's request prior to the arrival of mining operations in the area of the wells.

Comment: *The FEIS repeatedly takes the approach that past coal mining in the Powder River Basin has been so extensive and its effects so pervasive that the impacts of the newly proposed LBA need not be rigorously analyzed because such incremental impacts will be relatively small.*

Response: The EIS recognizes that the LBA tracts being considered for leasing would be maintenance leases for existing surface coal mines which would extend existing operations in time and onto new areas but would not result in new mine facilities, new road disturbance, increasing employment, or new infrastructure demands on the communities in the area.

Comment: *In such a situation, NEPA requires that the cumulative impacts of the proposed action (i.e. CBM drainage losses anticipated as a result of the proposed coal LBAs) and prior actions (i.e., CBM drainage losses caused by past coal leasing and mining) must be analyzed so that a comprehensive and logical policy to deal with this important issue may be developed by the agency.*

See above responses for discussions of the quantification of CBM within the LBA tracts, CBM losses caused by past coal leasing and mining and BLM policy on dealing with coal mining and CBM development conflicts.

Comment: *The FEIS briefly acknowledges that methane is a greenhouse gas that contributes to global warming but then goes on to assert that surface coal mining in the Powder River Basin accounts for only 0.98 percent of the estimated U.S. anthropomorphic methane emissions, as if to imply that a reduction of such incremental emission does not warrant analysis, quantification and consideration. (FEIS as 4-127 & 128)*

Response. The EIS quantifies the amount of CBM estimated to have been present on each LBA Tract in the year 2000 (pages 4-14 though 4-16) and recognizes that recovery of CBM from coal prior to mining could gradually reduce U.S. emissions of methane to the atmosphere, that CBM is currently being produced from the same coal seams that would be mined in all five of the LBA tracts considered in the EIS, that BLM estimates that a large portion of the CBM reserves could be recovered prior to initiation of mining activity on the LBA tracts under the Proposed Action and other alternatives considered in this EIS (page 4-128). This conclusion is supported by the increasing production of CBM in this area, including on some of the LBA Tracts, and the fact that the coal would not be mined until a mining and reclamation permit and MLA mining permit

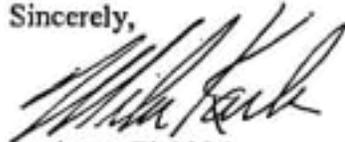
are acquired (as discussed above), during which time CBM production on the tracts can continue. The EIS also recognizes (page 4-158) that, while U.S. methane emissions attributable to surface coal mining would not be likely to decrease if one or more of these five LBA tracts are not leased at this time, methane could be more completely recovered from an LBA tract if leasing is delayed.

Comment: *The 2001 Letter also focused on the loss of CBM as a clean-burning fuel. It noted that, to the extent that CBM is not captured prior to mining, some fuel other than CBM must be burned or utilized to meet society's energy needs and that the replacement fuel is unlikely to burn as cleanly or be as benign to the environment as CBM.*

Response: CBM and coal are both important, established, and valuable sources of fuel that are currently being used to meet society's energy needs. The clean PRB coal currently being mined is being utilized by coal-burning power plants to meet energy needs. To the extent that equally clean coal reserves are not available in the future, coal other than PRB coal must be burned and that replacement coal is unlikely to burn as cleanly or be as benign to the environment as PRB coal. That is why the goals of BLM's policy on conflicts between CBM and coal mining operations are to optimize the recovery of both resources in an endeavor to secure the maximum return to the public in revenue and energy production, prevent avoidable waste of the public's resources using existing statutes, regulations, and lease terms, honor the rights of each lessee, subject to the terms of the lease and sound principles of resource conservation and protect public health and safety, and mitigate environmental impacts.

If you have any questions or would like to discuss your concerns further, please contact Nancy Doelger at (307) 261-7627.

Sincerely,



Assistant Field Manager, Solid Minerals

ATTACHMENT

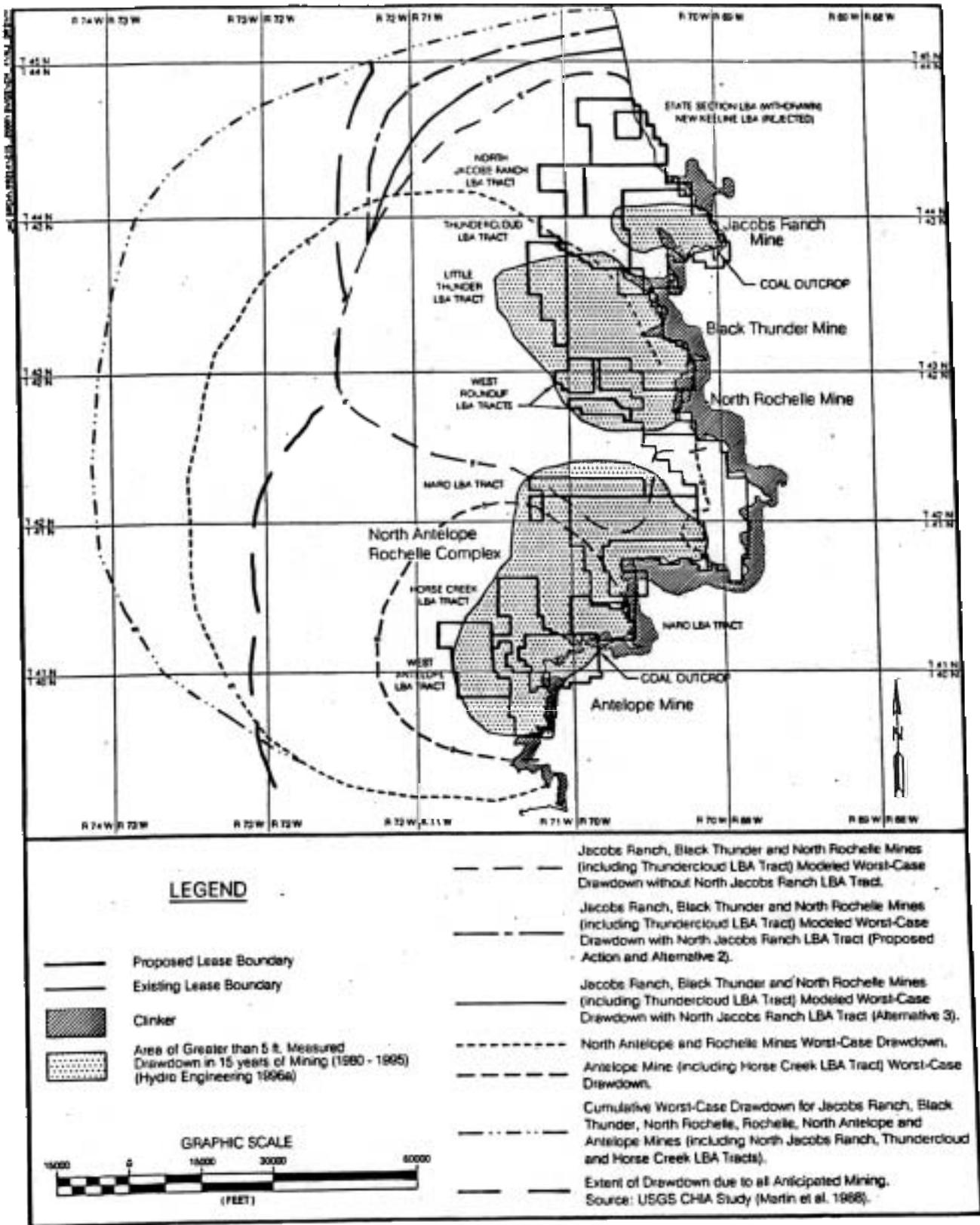


Figure 1. Modeled and Extrapolated Worst-Case Wyodak Coal Aquifer Drawdown Scenarios Showing Extent of the Actual 15-Year Drawdowns and USGS Predicted Cumulative Drawdown

ATTACHMENT

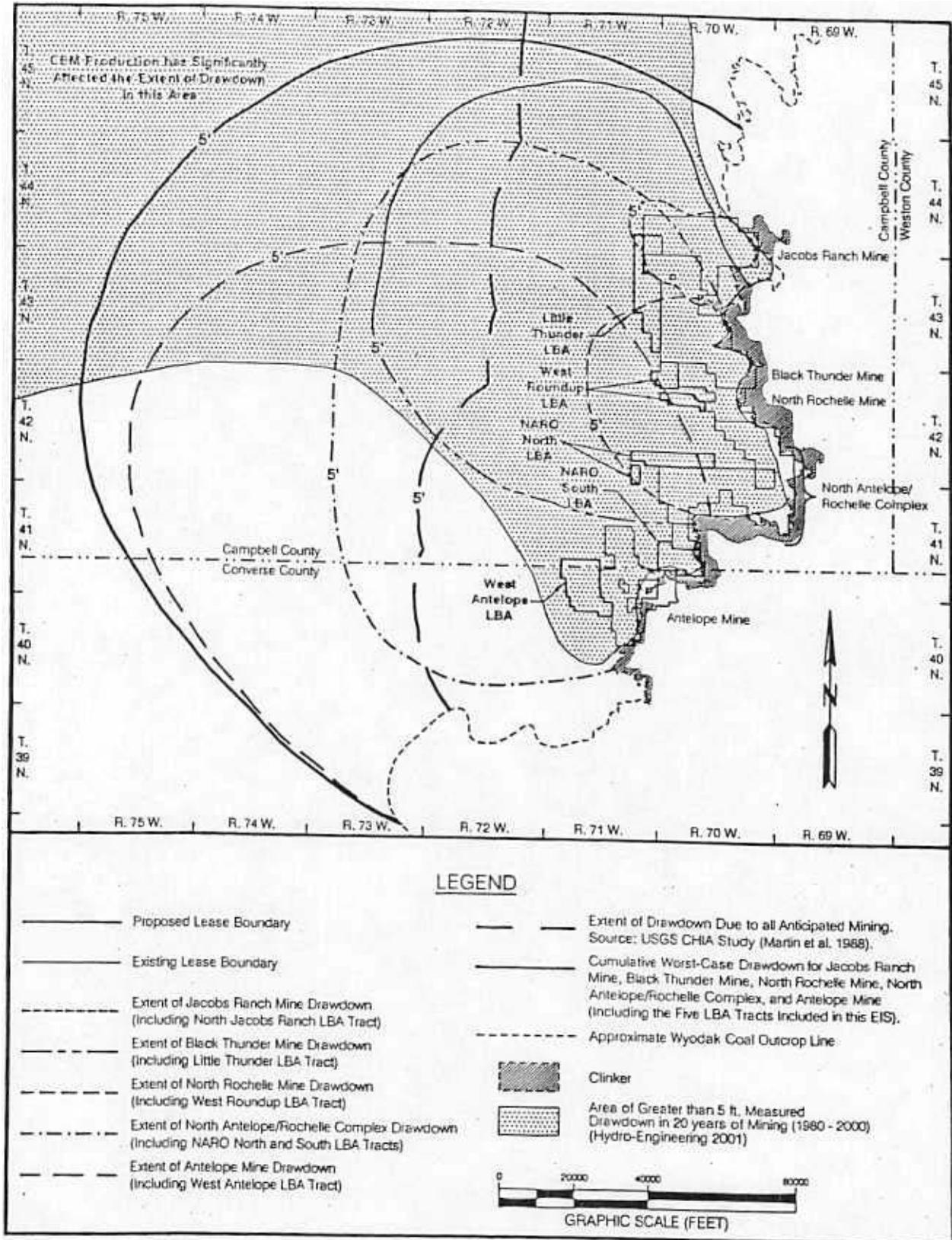


Figure 2. Extrapolated Worst Case Wyodak Coal Aquifer Drawdown Scenarios Showing Actual Extent of 20-Year Drawdowns and USFS Modeled Cumulative Drawdowns