

**FINDING OF NO SIGNIFICANT IMPACT
and
DECISION RECORD
for the
TEN MILE RIM COAL LEASE-BY-APPLICATION
WYW-154595**

INTRODUCTION

On September 28, 2001, Bridger Coal Company (BCC) filed an application with the Bureau of Land Management (BLM) for federal coal reserves located adjacent to the existing Jim Bridger Mine in north-central Sweetwater County, Wyoming. On February 11, 2003, BCC filed a modified application with the BLM at the Wyoming State Office in Cheyenne for a reduced lease area (refer to Attachment 1). The application and modification were made pursuant to provisions of the lease-by-application (LBA) regulations found in Title 43 *Code of Federal Regulations* (CFR) 3425.1. The tract applied for, known as the Ten Mile Rim Tract (TMRT), contains federal-, state-, and private-owned coal reserves. The BLM assigned the federal lease area case number WYW-154595. In addition to the federal LBA action, the project would also require BLM to issue a right-of-way (ROW) associated with the LBA for a portion of a new powerline required for the project. The ROW application would be made pursuant to 43 CFR 2800, which governs the federal approval and issuance of ROWs.

The TMRT affects portions of Townships 21 and 22 North, Ranges 100 and 101 West, 6th Principal Meridian, Sweetwater County, Wyoming (see Attachment 1). The area is located north of Interstate 80, approximately 10 miles north of Point of Rocks, approximately 25 miles east of Rock Springs, and approximately 70 miles west of Rawlins, Wyoming. The public land within the TMRT is located in the area administered by the BLM Rock Springs Field Office.

Coal production at the Jim Bridger Mine is slowing because existing privately and federally leased coal reserves are becoming too deep to be recovered using conventional surface mining methods (i.e., draglines). As a result, additional mineable coal reserves are needed to meet customer requirements. Representatives of BCC plan to supplement the decreasing supply of surface-mined coal with the addition of adjacent underground mining operations should they be the successful, qualified high bidder. The development of underground mining operations next to the existing surface mine would allow BCC to utilize many of the existing support systems at the Jim Bridger Mine (e.g., roads, overland conveyor, administrative and maintenance facilities), thereby minimizing costs and disturbance to the environment.

LEASE-BY-APPLICATION PROCESS

Under the LBA process, federal coal tracts are considered for leasing after nomination by industry. To process an LBA, the BLM must first evaluate the quantity, quality, maximum economic recovery, and fair market value of the federal coal and fulfill the requirements of the National Environmental Policy Act (NEPA) of 1969, as amended, by evaluating the environmental impacts of leasing and mining federal coal. For the TMRT, an Environmental Assessment (EA) was prepared in compliance with NEPA. The Office of Surface Mining Reclamation and Enforcement (OSM) has

been a cooperating agency during preparation of the environmental assessment. For the purposes of analysis, the environmental assessment assumed that BCC would be the successful bidder if a competitive sale is held.

Federal coal leasing is an open process. Bidding is not restricted to the applicant and competitive bids are encouraged. As envisioned by BCC, the proposed federal coal lease would be mined in conjunction with the currently leased private and state coals using underground techniques. Although BLM considers the tract a new mine start, BCC regards this tract as a continuation of existing mining operations even though mining of coal within this tract would require underground mining operations versus the surface mining operations within their existing mine permit area. Issuance of the federal coal lease would enable BCC to extend the life of their mining operations another 15 to 20 years and continue to supply coal of high heating value and low sulfur to the adjacent Jim Bridger Power Plant operated by Pacificorp.

FINDING OF NO SIGNIFICANT IMPACT

Based upon the analysis conducted for the “Final Environmental Assessment for the Proposed Ten Mile Rim Coal Lease-by-Application and Associated Right-of-Way” and with implementation of the protective measures identified in Attachment 2 of this decision, the Proposed Action will not cause significant impacts to the quality of the human, natural, and physical environment. Therefore, an environmental impact statement is not necessary.

DECISION

The BLM’s decision is to hold a competitive lease sale and issue a lease for federal coal tract WYW-154595 to the successful qualified high bidder if the highest bid received meets or exceeds the fair market value of the tract as determined by BLM and if all other leasing requirements are met. The competitive lease sale will be held under the regulations contained in 43 CFR 3425, Leasing on Application. Under the selected alternative (Proposed Action), Ten Mile Rim Tract (WYW-154595) includes 2,242.18 acres of federal coal lands and, based on preliminary estimates, contains 44 million tons of in-place federal coal reserves in Sweetwater County, Wyoming. Underground mining operations will be allowed as proposed should BCC become the successful bidder once all permits are approved. Should another entity become the successful bidder, subsequent mining operations could be subject to further environmental analysis. This decision incorporates the standard and special lease stipulations (Attachment 2) addressing compliance with the basic requirements of environmental statutes and additional BLM stipulations.

MANAGEMENT CONSIDERATIONS AND RATIONALE FOR THE DECISION

The BLM’s decision to hold a lease sale for 2,242.18 acres of federal coal lands is based on the careful consideration of a number of factors including BLM statutory requirements, potential impacts to the environment, comments raised by the public during public scoping and comments on the EA, and measures designed to avoid or minimize damage to or enhancement of resource values.

Consistency with Resource Management Plan and Other Statutory Requirements

The Proposed Action is in conformance with the Green River Resource Management Plan (RMP). The objective for management of the federal coal resources in the planning area is to provide for both short- and long-range development of federal coal, in an orderly and timely manner, consistent with the policies of the federal coal management program, environmental integrity, national energy needs, and related demands.

In addition to land use plan conformance, offering the lease tract to the highest qualified bidder would comply with the National Energy Policy. This policy promotes supplementing existing energy supplies from diverse sources including domestic oil, gas, and coal in addition to hydropower and nuclear power. The BLM recognizes that continued extraction of coal is essential to meet the nation's energy needs. Private development of federal coal reserves is integral to the BLM coal leasing program under the authorities of the Mineral Leasing Act of 1920 (MLA), Federal Land Policy and Management Act of 1976 (FLPMA), and the Federal Coal Leasing Amendment Act of 1976 (FCLAA).

Agency Statutory Requirements

This decision is consistent with all federal, state, and county authorizing actions required to implement the Proposed Action. All pertinent statutory requirements applicable to this proposal were considered. All necessary conferencing or consultation with U.S. Fish and Wildlife Service has been completed (see Appendix C of the "Final Environmental Assessment for the Proposed Ten Mile Rim Coal Lease-by-Application and Associated Right-of-Way"). A programmatic agreement between the Office of Surface Mining, the Advisory Council of Historic Preservation, the proponent, the BLM, and State Historic Preservation Office was entered into in June 2004 for the purposes of compliance with Section 106 of the Historic Preservation Act. If another entity becomes the successful bidder, a new agreement would be needed.

Relevant Resource and Economic Issues

Potential impacts from BCC's proposal to surface and subsurface resources identified in the associated EA are considered to be insignificant (necessary and due) after application of the proposed protective measures and mitigation identified in the associated analysis. These measures have been adopted and are made part of this decision. These measures are described in Attachment 2 of this decision. Leasing and subsequent mining of federal coal reserves provides the federal, state and affected communities with income in the form of lease bonus and royalty payments and provides the public with a supply of cost-efficient, low sulphur coal for power generation.

Application of Measures to Avoid or Minimize Environmental Impacts

The standard coal lease stipulations addressing compliance with the basic requirements of the environmental statutes will be attached to the proposed coal lease to be offered (Attachment 2). Consistent with the analysis, additional special stipulations (Attachment 2) to protect cultural and, paleontological resources, threatened and endangered species, and to address oil and gas/coal

resource development, resource recovery and protection, and public land survey monuments would also be attached to the coal lease.

The Surface Mining Control and Reclamation Act of 1977 (SMCRA) gives the OSM the primary authority to administer programs regulating surface facilities associated with underground coal mining operations. In the State of Wyoming, the Wyoming Department of Environmental Quality (WDEQ) regulates coal mining. The successful bidder for the TMRT must obtain state approval of a mine permit prior to mining. Mitigation measures specific to the proposed mine plan will be attached as conditions on the mining permit during this stage. To ensure that the Resource Recovery and Protection Plan (R2P2) is in compliance with the leasing stipulations and that the R2P2 meets the requirements of the MLA, BLM has a responsibility to review the R2P2 application prior to its approval.

Compliance with the applicable regulations and monitoring of impacts will be carried out as outlined in the mine permit, or permit revision which must be approved by WDEQ and by OSM prior to the commencement of mining. Also, a Mineral Leasing Act mining plan or plan revision must be approved by the Assistant Secretary of the Interior.

Should BCC be the successful bidder, applicant committed measures identified as part of their proposed mine operations (see Section 2.1.5, Final Environmental Assessment) will be adhered to.

PUBLIC INVOLVEMENT

BLM initiated public scoping on November 9, 2001, and 10 comment letters were received in response to scoping. In addition, BLM held a public meeting on December 12, 2001. The Draft EA was released for public comment on January 22, 2004, with a formal public hearing held March 9, 2004 to solicit comments on the Draft EA, the proposed sale, the fair market value, and maximum economic recovery. Eight comment letters were received on the Draft EA. The Final EA was released to the public on June 7, 2004, with the Notice of Availability (NOA) published in the Federal Register on June 17, 2004, allowing for a 30-day comment period. All issues, concerns, and alternatives brought forth during public scoping and review of the Draft and Final EA have been considered. No unresolved issues remain. BLM has provided responses to individual comment letters on the Final EA (Attachment 3). Based on comments, certain sections of the EA have been modified in the errata (see Attachment 4).

ALTERNATIVES CONSIDERED

The EA analyzed two alternatives in detail: the Proposed Action and the No Action. These alternatives are summarized below. A full description of each alternative analyzed in detail can be found in Chapter 2 of the EA.

Proposed Action

Under the Proposed Action, coal on federal lands within the TMRT would be offered for lease at a competitive sale, subject to standard and special BLM coal lease stipulations. An estimated 44 million tons of in-place coal reserves exist within the public lands in the TMRT, and an estimated

121.5 million tons of in-place coal reserves exist within the entire TMRT area (including federal, state, and private mineral rights) that would be mined over an approximate 15- to 20-year period. Because the TMRT is located within an area of checkerboard coal ownership (a pattern of alternating sections of federal, state, and private mineral rights), the use of federal land is needed for optimal mine development.

Public lands contained in the TMRT include:

Legal Location	Acres
T21N, R100W	
Section 6: Lots 8-14, S2NE, SENW, E2SW, SE	649.88
T22N, R100W	
Section 30: Lots 5-8, E2W2, E2	633.56
T21N, R100W	
Section 26: Lots 1-16	639.22
Section 34: Lots 1, 2, 6, 7, 8, 13, NESE, SWSE	319.52
Total	2,242.18

Other lands within the tract are owned either by Anadarko Land Corporation (who acquired the lands from Union Pacific Land Resources Corporation (UPLRC), containing 3,033.55 acres) or the State of Wyoming (containing 640 acres).

Under the Proposed Action, all coal within the TMRT would be mined utilizing underground longwall mining technologies, and a minimal amount of surface-disturbing activities would occur. A majority of the additional surface-disturbing activities for mine-related facilities (i.e., surface support facilities, powerline, overland conveyor, and access road) would occur within areas that have already been disturbed within the existing Jim Bridger Mine permit area. An exception would be for a separate electric powerline right-of-way required for underground mining equipment and surface support facilities.

No Action Alternative

Under the No Action Alternative, the TMRT coal lease by application would be rejected and the area contained in the application would not be offered for competitive coal sale at this time. However, rejection of the application would not affect the already leased and permitted surface mining activity at the Jim Bridger Mine. Selection of the No Action Alternative would not preclude the possibility of subsequent leasing of these lands.

Under the No Action Alternative, the BLM would not offer the federal coal within the TMRT for sale. As a result, BCC's ability to sustain historic coal production levels would be limited to the remaining coal reserves located within the existing leased area that would be economically recoverable using existing surface mining operations and highwall mining methods.

ALTERNATIVES CONSIDERED BUT ELIMINATED FROM DETAILED STUDY

A full description of each alternative considered but eliminated from detailed study can be found in Chapter 2 of the EA.

Hold a Competitive Sale of Federal Coal Lands that Would Maximize the Potential for a New Stand-Alone Mine

This alternative assumes that the BLM would award the TMRT to a successful bidder but not the current applicant. Since there are no adjacent mines that could incorporate the coal reserves into an existing lease, the successful bidder (assuming it would not be the current applicant) would be required to establish a new stand-alone mine. Due to the depth of the coal (200-1,000 feet below the surface) within the TMRT, it is assumed that the tract would have to be mined utilizing underground technologies and would require considerable initial investment. Thus, this alternative was considered but dropped from detailed study due to the initial cost of starting a new mine not accessed by the existing highwall portal located within the Jim Bridger Mine.

Smaller Sale Area

Under this alternative, the BLM would only lease approximately one-half of the identified federal coal reserves within the TMRT. Specifically, the E½ of Section 34, T22N, R101W, and all of Section 6, T21N, R100W, would be the only federally owned coal included in this alternative. This alternative would also include Sections 35 (privately owned coal) and 36 (state-owned coal), T22N, R101W, and Section 31 (privately owned coal), T22N, R100W. Leasing of only one-half of the proposed tract may have the effect of making the project, as a whole, uneconomic because of the extensive capital investments necessary to start an underground mine of the same capacity and with only one-half the coal reserves anticipated in the Proposed Action. This alternative was determined not economically feasible, and was eliminated from further consideration.

Larger Sale Area (Originally-Applied-for LBA Tract)

Under this alternative, the BLM would lease approximately three times as much federal coal as identified in the current TMRT LBA area and the size would be similar to the originally applied-for LBA Tract. The larger TMRT LBA area was identified during the public scoping for this project. However, results of additional exploration drilling conducted by the current applicant during 2001 through 2003 within a larger TMRT LBA area indicated that the quantity and quality of coal within this larger tract was unacceptable and would not justify proceeding with the leasing process. It is possible that the successful bidder of the lease sale may apply for a subsequent lease or lease modification if the proposed LBA were leased and mined. This alternative was determined to be not economically feasible and was eliminated from further consideration in the EA. The elimination of this alternative from the detailed analysis would not result in the permanent bypass of any federal coal reserves.

Postpone Competitive Lease Sales

Under this alternative, the sale of the federal coal reserves within the TMRT would be postponed more than 5 years on the assumption that coal prices would rise in the future, thus increasing the fair market value of the tract, resulting in a higher bonus bid when the coal is sold. Although postponing the lease sale until prices rise may conceivably result in a higher bonus bid paid for the tract, it would not necessarily result in higher royalty payments. It typically takes several years to lease and permit a coal tract, and coal prices would not necessarily remain high until the coal is actually mined if a sale is postponed until the prices increase. Because the potential economic benefits are not completely predictable and the impacts of mining coal at a later time would likely be similar to a stand-alone mine, this alternative was eliminated from detailed study in the EA.

MITIGATION, COMPLIANCE, and MONITORING

If the TMRT is leased, the lease will contain standard coal lease stipulations (see Attachment 2). The BLM will require certain special stipulations (see Attachment 2) for protection of resources including cultural resources, paleontological resources, threatened and endangered species, multiple mineral development (oil, gas, and coal), resource recovery and protection, public land survey, and sole source drinking water protection.

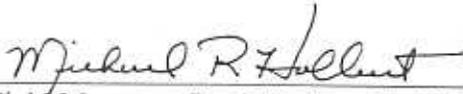
The SMCRA gives OSM the authority to administer programs that regulate surface facilities involved with underground mining operations. Should the adjacent mine operator be the successful, qualified high bidder for federal coal tract WYW-154595, the WDEQ/Land Quality Division (LQD) must approve a modification to the existing mine permit to allow for surface facilities in addition to a new mine permit. Before the coal can be mined, an MLA mining plan must be approved by the Assistant Secretary of the Interior. Protective measures specific to the current approved mine plan will be revised to include the standard and special stipulations for the surface facilities associated with federal coal tract WYW-154595.

If the successful, qualified high bidder does not operate the adjacent mine and proposes to construct and operate a new mine, then a new permit and new mining plan must be prepared and approved before coal can be mined. Before federal coal tract WYW-154595 can be mined, protective measures and monitoring plans must be attached to any new mining or reclamation plan.

Prior to mining of the coal lease, all practicable means to avoid or minimize environmental harm will be adopted as lease stipulations or, consistent with normal practices, as conditions of the mining permit. To ensure that the mining plan is in compliance with the leasing stipulations, BLM has the responsibility to review the Resource Recovery and Protection Plan prior to approval of the mining plan. Before any mining of the Ten Mile Rim LBA tract can begin, the R2P2 must be approved by BLM, the permit, or permit revision, must be approved by WDEQ/LQD, and the MLA mining plan, or plan revision, must be approved by the Assistant Secretary of the Interior.

RECOMMENDATION

I recommend that following a competitive lease sale, federal coal tract WYW-154595 and its associated 2,242.18 acres more or less, be leased to the successful, qualified high bidder provided it is determined that the highest bid meets, or exceeds, the Fair Market Value of the tract as determined by the BLM and that all other leasing requirements are met. The competitive lease sale will be held in accordance with the requirements at 43 CFR 3422. The lease will be subject to the standard and special stipulations found in Attachment 2 of this decision.


Field Manager, Rock Springs Field Office

SEP 09 2004
Date

APPROVAL

I agree with the recommendation of the Rock Springs Field Manager and approve the decision to offer federal coal tract WYW-154595 for competitive lease sale.


BLM, Wyoming State Director
ASSOCIATE

9/20/04
Date

APPEAL OF STATE DIRECTOR DECISION

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 4 and the enclosed Form 1842-1 (Attachment 5). If an appeal is filed, your notice of appeal must be filed in this office (BLM, Wyoming State Office, P.O. Box 1828, Cheyenne, Wyoming 82003) within thirty (30) days from the date BLM published the Notice of Availability (NOA) of this Decision Record in the Federal Register. BLM expects that the NOA will be published during the week of September 20, 2004. The appellant has 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(a)(2) 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.

Standard for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulation, a petition for stay of a decision pending appeal shall show sufficient justification based on the following standards:

- 1) The relative harm to the parties if a stay is granted or denied;
- 2) The likelihood of the appellant's success on the merits;
- 3) The likelihood of immediate and irreparable harm if the stay is not granted; and
- 4) Whether the public interest favors granting a stay.

The adverse parties to any appeal of the decision by the State Director include:

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