NRDC • Western Organization of Resource Councils • Sierra Club
Northern Plains Resource Council • Powder River Basin Resource Council • Greenpeace
WildEarth Guardians • CO-FORCE • Clean Energy Action

July 18, 2013

The Honorable Sally Jewell
Secretary of Interior
U.S. Department of Interior
1849 C Street, NW
Washington, DC 20240

Dear Secretary Jewell:

Last month, the Interior Department's Office of Inspector General (OIG) released a report emphasizing the need to fix many aspects of the Bureau of Land Management's (BLM) federal coal management program. *See* OIG Report No. CR-EV-BLM-0001-2012, "Coal Management Program, U.S. Department of the Interior" (June 11, 2013). The findings of this report emphasize the opportunity for you to bring a fresh perspective, assert bold leadership, and secure much-needed improvements to the federal coal management program so all Americans can benefit. The report points to the need for a moratorium on new coal leasing so these improvements can be made. As we have before, we call on you to take action to fully restore the integrity of the American coal management program.

Our request is especially urgent as the BLM just announced its intent to sell the Maysdorf II North coal lease by application in the Powder River Basin (PRB) on August 21, 2013. *See* 78 Fed. Reg. 41946 (July 12, 2013). Accounting for 148 million tons of coal, this imminent proposed coal lease sale underscores the need for a moratorium.

The OIG's report reveals that the federal government and state and local beneficiaries are losing significant revenue due to the undervaluation of taxpayer-owned coal. Although the report estimates at least $60 million has been lost, OIG's revelation that the BLM is not taking into account coal export markets when determining the value of coal along strongly indicates that millions, if not billions, more are being lost. This comports with previous reviews of the coal management program, including the 2012 report by the Institute for Energy Economics and Financial Analysis, which found nearly $30 billion had been lost in the last 30 years due to the undervaluation of coal leases.[1]

Although the OIG report falls short of illustrating exactly how much revenue has been denied from the American public, one thing is certain: the problem of undervaluing federal coal must be fixed before more coal resources are committed. Nowhere is this more apparent than in the Powder River Basin of Wyoming and Montana.

Nearly five billion tons of federal coal in the PRB is in some phase of processing for sale by the BLM. This is an enormous amount of coal, nearly equal to the amount leased in the region between 1990 and 2010 (since 2010, 2.1 billion tons have been leased). Surprisingly, the push in the PRB comes even as several mines in the area seeking new leases already have a decade or more of federal coal under lease.

The push for new leases in the PRB also comes amid increased exports from the region and signs that export markets are becoming more lucrative for domestic producers. As the OIG report states, "[e]xports from the Powder River Basin are expected to increase substantially in the coming years." The report demonstrates that export coal prices have increased more than 100% just since 2007. There is reasonable concern that companies may be taking advantage of the likely undervaluation of coal by BLM, aiming to

---

[1] Institute for Energy Economics and Financial Analysis, "The Great Giveaway: An analysis of the costly failure of federal coal leasing in the Powder River Basin" (June 2012), available online at http://www.ieefa.org/study-almost-30-billion-in-revenues-lost-to-taxpayers-by-giveaway-of-federally-owned-coal-in-powder-river-basin/.

"lock in" new leases and reap windfall profits on the export market. Such concerns were underscored in a January 3, 2013 letter from U.S. Senators Wyden and Murkowski to former Secretary of the Interior, Ken Salazar.

The financial implications of undervaluing federal coal are simply too great to allow any further lease sales to move forward without full confidence they are being valued correctly. As emphasized in the OIG report, small miscalculations in coal value can cost the American public dearly. With nearly 5 billion tons pending in the region, a one-cent miscalculation would amount to $50 million in lost revenue; a one dollar miscalculation, which the Institute for Energy Economics and Financial Analysis report indicates is the likely amount of undervaluation, would amount to $5 billion in lost revenue.

With the BLM proposing to sell the Maysdorf II North coal lease, which would expand Cloud Peak Energy's Cordero Rojo mine, it is imperative that the Interior Department ensures the American public is not shortchanged. In 2012, Cloud Peak exported 5.5% of its total production from the Powder River Basin and has expressly stated plans to increase its coal exports.[2]

According to the OIG report, the problem of coal undervaluation appears to have permeated much of the coal management program including the lease modification process and the process of determining fair market value for leases prior to sale. It is important to note that Interior itself has stated that current coal valuation rules need updating. *See* ONRR, "Advance Notice of Proposed Rulemaking: Federal and Indian Coal Valuation," 76 Fed. Reg. 30881 (May 27, 2011).

Critics of the OIG have asserted the coal management program recovers the minimum value required by law. Even if this were true, it would be a poor benchmark by which to assess whether the program is benefitting the public to the fullest extent.

We understand and appreciate that Interior and the BLM have committed to address the findings and recommendations of the OIG. However, we are concerned that measures to address the recommendations of the OIG will not be fully implemented until the end of 2014, further underscoring the appropriateness of a near-term leasing moratorium.

Such near-term action is all the more appropriate in light of other critical findings of the OIG, including that the BLM is not adequately inspecting and enforcing compliance with its coal management regulations, including environmental protection requirements. There is both an economic and environmental imperative for Interior to ensure it is putting its best foot forward.

We appreciate your time and attention to this very important issue and again wish to emphasize that the convergence of heightened public concern and scrutiny over the federal coal management program and the arrival of your new leadership at the Interior Department presents an extraordinary opportunity to shape the federal coal program in a more accountable form.

Sincerely,

Theo Spencer
Senior Advocate
Climate and Clean Air Program
Natural Resources Defense Council
New York, NY

---

[2] According to Cloud Peak Energy's 2012 Annual Report, available online at http://media.corporate-ir.net/media_files/IROL/23/232126/Cloud%20Peak%20Proxy_10K.PDF.

Pat Sweeney
Executive Director
Western Organization of Resource Councils
Billings, MT

Athan Manuel
Director, Lands Protection Program
Sierra Club
Washington, D.C.

Kevin Lind
Executive Director
Powder River Basin Resource Council
Sheridan, WY

Teresa Erickson
Executive Director
Northern Plains Resource Council
Billings, MT

Kelly Mitchell
Climate and Energy Campaigner
Greenpeace
Chicago, IL

Jeremy Nichols
Climate and Energy Program Director
WildEarth Guardians
Denver, CO

Gina Hardin
Director
CO-FORCE (Coloradans for Fair Rates and Clean Energy)
Boulder, CO

Leslie Glustrom
Director of Research and Policy
Clean Energy Action
Boulder, CO