

WTE column of August 22, 2015. Editor's headline: "Gordon wrong on leases"

CST of same date: "Another side to cheery picture on coal leases"

Wyoming newspapers recently published the comments of Treasurer Mark Gordon on the state of the federal coal leasing program. Mr. Gordon avers that, in Wyoming, the program is "an excellent value" and that the Bureau of Land Management manages its leases "in a responsible fashion." He claims that the "average coal mining job pays over \$80,000 per year" and that, in 2014, Wyoming's share of federal mining royalties "was over \$263 million." While there is "room for improvement," he worries that the current "listening sessions" offered by the Department of Interior may accept complaints that BLM leasing shortchanges the American public.

There is another side to Mr. Gordon's cheery picture. At the session in Gillette on Thursday, August 13, Sharon Anderson, attorney for Powder River Basin Resource Council, submitted the following statistics:

- \$28 billion of public revenue has been lost because of chronic undervaluation of coal-lease bonus bids plus resulting subsequent losses from underpaid royalties, according to estimates by the Institute for Energy Economics and Financial Analysis.
- \$126 million of public revenue from Wyoming leases could be generated, per Headwaters Economics estimates, if the Department of Interior finished its proposal to close a loophole in the way coal royalties are valued.
- \$7 million of public revenue is lost for every cent per ton that coal companies decrease their bids for the largest coal leases in the Powder River Basin. In other words, raising the bid amounts even one penny brings in millions of additional revenue.
- \$60 million of public revenue was lost because of undervaluing lease modifications, according to estimates by the Office of Inspector General.
- \$100 is the regulatory minimum bid amount per acre of land. The amount has not been updated in decades. Even BLM admits that it does not represent fair market value.
- 90% of leases receive only one bidder. Lease tracts, as applied for by the coal companies, are designed to benefit that coal company, not the public.

Also at the hearing, Robert LeResche, a rancher in the Powder River Basin who sits on the board of several environmental groups, highlighted the following concerns:

First, the coal industry has traditionally "gamed" the royalty system through transfers and questionable deductions. The practice reduces royalty payments to 5-6%, rather than the 12.5% required by the leases. Recent investigations show that the Department of Interior allows coal companies to sell coal to their own subsidiaries at artificially low prices. These moves are aimed at avoiding higher royalty payments.

Further, an urgent need exists for the Department of Interior to deal with the looming danger that reclamation contemplated and demanded by the Surface Mining Control and

Reclamation Act will not be funded by industry. The act requires “contemporaneous” reclamation. In fact, this has never occurred.

In Wyoming, 271 square miles—that’s 174,000 acres—of surface has been disturbed. A miserly six percent of that has been reclaimed to bond-release standards.

For example, Peabody’s North Antelope/New Rochelle mine in Wyoming, one of the largest on earth, covers 57,198 acres. It began operating in 1984 and has yet to reclaim even one acre to final bond release standards.

In Wyoming and some other states, self-bonding is allowed. This dangerous practice is fast becoming problematic as companies’ balance sheets deteriorate. Alpha’s recent bankruptcy filing leaves questionable where their \$411 million reclamation pledge will derive. Where does reclamation stand in the seniority line of unsecured creditors?

Mr. LeResche offers the following solutions:

- BLM and the Office of Surface Mining must establish timetables for bond release to be required;
- BLM must refuse to sell new leases to a company until 50% of its previous leases are reclaimed to bond release;
- Self-Bonding rules need revision. Both the Interior Department and the stakeholder states must fight in any bankruptcy proceedings so that assets be used to accelerate reclamation.

All this suggests that, in his eagerness to beat the drum for the coal industry, Treasurer Gordon has misread the facts. He needs to revise his pronouncements.

The question is: Given recent losses, will coal companies agree to demands for reclamation, not to mention assessment of fairer (increased) royalty payments? Last month, Cloud Peak Energy announced a \$53 million loss for the ending quarter. Arch Coal reported a \$168 million dollar loss; Peabody Energy, \$1 billion loss. The coal giant Alpha Natural Resources declared bankruptcy.

Will their sob stories sway the Department of Interior and BLM?

Last not least, the wrangling over dollars and cents obscures the aftermath of coal mining and coal-burning: the enormous atmospheric pollution that inexorably drives up global temperatures. Even Governor Matt Mead recently suggested we may have to take seriously the Obama administration’s Clean Power Plan, saying Wyoming will draft a plan to comply with new federal regulations for carbon emissions from power plants.

“We don’t live in a vacuum,” the governor said. Mr. Gordon seems not to have noticed.