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Colorado coal revenues high, but GAO says sloppy leasing cost millions

By Mark Jaffe
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The U.S. and Colorado have lost millions of dollars on public-land coal leases because the Bureau of Land Management sold them at below-market value, according to government audits.

The BLM Colorado office failed to properly value lease parcels, sold parcels for the minimum price allowed and underestimated the amount of coal in leases, the reports said.

In doing so, the Colorado office failed to comply with the requirements of the Federal Minerals Leasing Act, according to the Department of Interior's Inspector General.

Over the past four years, Colorado has received nearly $56 million in revenue from the federal coal-leasing program, according to BLM figures.

Studies by the IG, the Government Accountability Office and the U.S. Senate Energy and Natural Resources Committee indicate that the figure could have been larger.

There is no tally of the potentially lost revenue, but the reports note some examples of what the gap might be:

• The total bids accepted by Colorado since 1990 have been about $22 million less than those in Utah, despite the fact that Colorado has leased almost 76 million tons more coal than Utah.

• There were 16 leases in Western states that sold for the minium bid price of $100 an acre. Eleven of those were in Colorado.

• In a sample of 15 leases, the IG found four that were sold below fair-market value at a loss of $2 million. Two were in New Mexico; the other two, including the largest, were in Colorado.

• In 2012, Colorado had a royalty rate of 5.6 percent compared with Utah's 6.9 percent. Both states have comparable underground mining industries.

"The royalties paid by coal companies — and energy firms of all kinds — provide critical support for local schools, roads and other services that Colorado families count on," U.S. Sen. Mark Udall said in a statement. "I have serious concerns about Colorado's BLM office leasing coal below the market rate."

Colorado, with fewer than 10 mines, is second only to Wyoming in the collection of royalties, Colorado Mining Association president Stuart Sanderson said.

"The GAO recommended some improvements, but in general the program is working," Sanderson said.

Demand for coal has declined, and prices for Rocky Mountain region coal have remained flat, according to federal figures.

One of the Colorado parcels identified by the IG as being sold below fair-market value was the Sage Creek lease.

"That project has been placed on hold because of the depressed markets," Sanderson said.

The coal-leasing program generates money through competitive bids for leases and royalties on the coal sold.

The federal government keeps 51 percent of the money and sends the other 49 percent to the state where the coal was mined.

Coal leasing nationwide has generated about $1 billion annually in recent years, the reports estimate.

Still, the GAO study found the BLM "did not consistently document the rationale for accepting bids that were initially below the fair-market value."

The Colorado BLM also failed to use proper appraisal techniques, the GAO said. In some cases, the BLM used data provided by industry to set market value.

"The problem is systematic," said Mark Squillace, director of the Natural Resources Law Center at the University of Colorado at Boulder. "The whole program is broken."

The BLM has " begun implementing a number of reforms designed to improve and standardize the performance of the BLM coal program," the Department of Interior said in a statement to The Denver Post.

The studies found problems in leasing programs in all Western states — but Colorado had a large number.

"Colorado really sticks out," said Jeremy Nichols, climate and energy director for the environmental group WildEarth Guardians.

Colorado BLM spokesman Steven Hall said his office is "reviewing the findings of the report, and we have staff participating on national BLM teams to address the issues raised."

To arrive at a fair value for the coal, federal officials are supposed to look at the price of previous sales and the income value of the coal — a way of looking at what it would fetch on the market.

Colorado has used only the previous sales, according to the GAO report.

The BLM office did not consider the impact of the international export market even though coal was being exported, the study said.

The Senate Energy and natural Resources Committee analysis found 15 leases where BLM had underestimated the amount of coal being offered in leases — ranging from 10 percent to 84 percent.

The Colorado office issued seven of those leases.

A 500-acre parcel at the Foidel Creek Mine in Routt County was leased for a $350,000 bid and was estimated to have 1.4 million tons of coal. As of September, nearly 2.6 million tons had been mined at the site, according to federal figures.

"The federal coal-leasing program showed systematic problems at state offices throughout the West that demand further review," Sen. Ron Wyden, D-Oregon, who oversaw the Senate committee investigation, said in a statement.

The GAO made recommendations for greater transparency, and more standardize appraisals and sale procedures.

"These are common-sense recommendations that the industry supports," said Luke Popovich, a spokesman for the National Mining Association. "But I don't think there is any smoking gun here."

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