

8.COAL:

Group calls on Interior to scrap 'illegal' leases

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Environmental group WildEarth Guardians, a major force in opposing federal coal leases to mining companies, is calling on the Interior Department's Bureau of Land Management to scrap several leases the group says were likely offered illegally.

"The bottom line is BLM's shortcomings have cost taxpayers, eroded public confidence and trust in the Agency's management of federal coal, and cast significant doubt over the ability of the agency to effectively manage federal coal resources in the future," wrote WildEarth Guardians climate and energy director, Jeremy Nichols, to acting BLM chief Neil Kornze yesterday.

The [letter](#) from WildEarth Guardians, the latest in a string of missives on the issue, follows an Interior Office of Inspector General [report](#) accusing BLM of potentially undervaluing lease modifications by about \$60 million.

WildEarth Guardians yesterday highlighted a lease modification in Wyoming that went for \$12.39 an acre, below the statutory requirement of at least \$100 per acre. A lease modification can add coal reserves to an existing tract.

Then a Government Accountability Office [report](#) released this month said BLM had legal leeway in issuing four leases where company bids were under fair market value. But the document said the agency failed to properly document its actions.

Plus there's the November [letter](#) from Deputy Inspector General Mary Kendall to former Senate Energy and Natural Resources Chairman Ron Wyden (D-Ore.), which the panel released last week. In it, Kendall makes several accusations.

Wyden asked Kendall in a previous letter, "Which [BLM] State offices did not comply with the Mineral Leasing Act?"

Kendall responded in November, "BLM's Colorado and New Mexico State Offices did not comply with the Mineral Leasing Act by accepting bids below [fair market value]."

Kendall's letter to Wyden also accused some BLM state and field offices of improperly negotiating with mining companies to "expedite" lease sales.

"These offices allowed companies to justify their initial failed bids to avoid the extra time and effort involved in holding a reoffer, which basically restarts the sale process," Kendall wrote.

"In our view," she added, "this is a form of negotiation currently prohibited by law and regulation."

Despite the mountain of reports on this issue, Wyden called on Interior to further scrutinize past lease sales and other actions, including royalty rate reductions (*E&ENews PM*, Feb. 7). Nichols also asked BLM to further comb through its past decisions.

"Although the BLM has committed to addressing these findings, we have great concerns that the Agency is making no effort to remedy past shortcomings -- particularly very recent and clear legal shortcomings -- in order to fully restore public trust," he wrote.

For its part, BLM has agreed with many of the findings and recommendations outlined in the OIG and GAO reports. Kornze, however, took issue with the lease modification loss estimates.

"The OIG's estimate requires the coal in the modification area to have the same value as the coal in the original lease area, however, coal within a lease modification will likely have a lesser competitive value than coal in the original lease," said BLM in response to the OIG report last year.

In a statement, Interior spokeswoman Jessica Kershaw said BLM has already begun implementing reforms to better protect taxpayers under the coal leasing program.

"The BLM's ongoing efforts, combined with addressing recommendations from recent reviews, will help to ensure that the program is obtaining a fair return to the public for Federal coal resources, appropriately considering export markets, consistently and effectively implementing the inspections and enforcement program and providing timely information to the public," Kershaw said.

For Nichols and other coal industry opponents, BLM's actions don't go far enough. The agency has not heeded their calls for a leasing moratorium and is unlikely to scrap previously issued leases.

And in the mining industry's view, BLM is right to resist demands from critics that the agency overhaul the leasing system. In response to the recent findings, the National Mining Association said recommendations were "narrowly tailored" and required "no wholesale change."

Responding to the GAO report, NMA said, "There is no basis in this report for claims that there are significant deficiencies in the federal coal lease program that deprive taxpayers of fair value from coal mined on federal lands."