

June 15, 2023



Tracy Stone-Manning, Director  
Bureau of Land Management  
Submitted electronically

Agency/Docket Number: BLM\_HQ\_FRN\_MO4500170190

## **Taxpayers for Common Sense Comments to Bureau of Land Management on the Federal Coal Leasing Program Review**

Director Stone-Manning:

Taxpayers for Common Sense (TCS) is a national nonpartisan budget watchdog that has been working on behalf of the nation's taxpayers since 1995. Part of our mission is ensuring taxpayers are fairly compensated for the natural resources we collectively own and that federal policies do not leave taxpayers with long-term liabilities.

For decades the federal coal program has been riddled with problems, leaving taxpayers shouldering much of the financial burden caused by the impacts of production, combustion, and post-production reclamation of coal. In 2013, TCS published an extensive report [Federal Coal Leasing: Fair Market Value and a Fair Return for Taxpayers](#) examining how the federal coal leasing system has failed to give taxpayers a fair return. TCS has continued to track, monitor, and scrutinize actions of the federal coal program, sounding the alarm in testimony, reports, policy briefs, and in other communications with the Department of the Interior, Congress, and the public. Most recently, TCS submitted [comments](#) to the Bureau of Land Management urging the agency to examine the return to taxpayers as part of the federal coal leasing program review in 2021. The bottom line is that in the existing system our nation's coal has been substantially undervalued and significant liabilities have been passed on to taxpayers.

**Therefore, TCS recommends the Department of the Interior and its subagency the Bureau of Land Management consider the full financial liabilities taxpayers would face under continuation of the federal coal program in the absence of reform.**

The Surface Mining Control and Reclamation Act of 1977 (SMCRA) requires coal mining operators to restore all land affected by their operations and to post a bond to cover reclamation costs if they fail to restore the land.<sup>1</sup> With many coal companies financially stressed, the ability of the Bureau of Land Management (BLM) to implement the law's bonding requirements, particularly in allowing "[self-bonding](#)," is concerning.

In recent years, coal companies have qualified for self-bonding in ways that were not anticipated by the original self-bonding rules promulgated in 1983<sup>2</sup> by the Office of Surface Mining Reclamation and Enforcement (OSMRE), the regulatory authority created by SMCRA. Specifically, large coal companies have used the financial statements of subsidiaries to prove they have the assets available to cover

---

<sup>1</sup> P.L. 95-87 – August 3, 1977, Section 509(c)

<sup>2</sup> 30 C.F.R 700-999

reclamation costs.<sup>3</sup> Frequently, the same assets used to signify the health of a subsidiary for self-bonding purposes are also posted as collateral to cover debt carried by its parent company. They are, in a sense, “double-pledged.” In the event of a bankruptcy, there is no requirement that a company’s promise to pay for reclamation costs through a self-bond will get any higher priority than other creditor claims. Therefore, SMCRA’s self-bonding option has proven inadequate to protect taxpayers. In 2016, TCS submitted [comments](#) in support of OSMRE’s propose rule to disallow self-bonding for companies with a history of insolvency and their subsidiaries.

The BLM must review its bonding regulations and practices to determine whether current arrangements will adequately cover reclamation costs in the event of default. Reclamation costs must be reviewed to keep pace with current development costs. And BLM must change bonding practices to ensure that companies have assets adequate to cover all un-reclaimed leases.

In taking further action on the moratorium instituted by the Jewell Order and identifying potential alternatives, **TCS strongly supports the Department undertaking a robust review of reclamation and bonding requirements within the federal coal program including consideration of the climate impacts and associated taxpayer costs of the production and consumption of coal.**

The combustion of coal produces carbon dioxide, the primary greenhouse gas. Methane, another potent greenhouse gas, is also vented during coal mining to make sure the concentration does not endanger the safety of workers. According to the U.S. Energy Information Agency, coal combustion accounted for around 20% of U.S. energy related carbon dioxide emissions and close to 60% of electric power emissions in 2021. And in 2020, coal mining and abandoned coal mines accounted for around 6% of total U.S. methane emissions.<sup>4</sup> The greenhouse gases emitted during the production and combustion of coal contribute to global warming and climate change, the impact of which we are all paying for.

Climate change has led to the increase in intensity as well as frequency of extreme weather events like wildfires, hurricanes, floods, droughts, heat waves, etc. The National Oceanic and Atmospheric Administration (NOAA) reports that these weather disasters are increasing in number and are becoming more costly. Between 1980 and 2007, only one year (1998) saw the occurrence of more than seven separate weather-related disasters with a price tag over \$1 billion. Since 2007, there has only been one year where there were fewer than seven such events, including a record 22, billion-dollar disasters in 2020 alone.<sup>5</sup> TCS report [Paying the Price: Taxpayers Footing the Bill for Increasing Costs of Climate Change](#) estimated that taxpayers spent \$120 billion responding to weather disasters in 2017, which exceeded the annual discretionary budget of every federal agency that year except the Pentagon. On top of weather-related disaster response, taxpayers also pay the price of climate change through spending on infrastructure, agriculture, and national security, as well as other costs like mortgage risk. Taxpayer spending on disaster response, federal flood insurance, infrastructure, federal crop insurance and agricultural disaster aid, national security, and more over the last 10 fiscal years amounts to over \$500

---

<sup>3</sup> Benjamin Storrow, Casper Star Tribune, “Feds Say Peabody Energy may be violating mining law,” February 17, 2016. Available at: [http://trib.com/business/energy/feds-say-peabody-energy-may-be-violating-mining-law/article\\_9f9ff61c-a338-5433-b77a-36ccab78b628.html](http://trib.com/business/energy/feds-say-peabody-energy-may-be-violating-mining-law/article_9f9ff61c-a338-5433-b77a-36ccab78b628.html)

<sup>4</sup> Energy Information Agency (EIA), Coal and the Environment. <https://www.eia.gov/energyexplained/coal/coal-and-the-environment.php>

<sup>5</sup> NOAA National Centers for Environmental Information (NCEI) U.S. Billion-Dollar Weather and Climate Disasters (2023). <https://www.ncei.noaa.gov/access/billions/>, DOI: 10.25921/stkw-7w73

billion—a number that is by no means a comprehensive overview of every climate cost borne by taxpayers.

**Given the magnitude of climate-related liabilities shouldered by taxpayers, TCS strongly urges the Department to closely examine climate impacts and associated costs of the federal coal program.**

From the designation of lease tracts to the reclamation of abandoned mines, not only does the federal coal program create controversy by failing to ensure a fair return to taxpayers, it also creates additional pollution liabilities. Given that backdrop, it is appropriate for the Interior Department to reevaluate the process and to update policies that have not kept pace with today's energy markets. The goal of this review should be to create a program that strives for transparency and fulfills the department's fiduciary responsibility to wisely manage public resources on behalf of taxpayers.

Sincerely,

A handwritten signature in black ink, appearing to read "S.E. Ellis". The signature is stylized and cursive.

Stephen Ellis  
President