CLOUD PEAK
ENERGY®

641668

RECEIVED
2014 MAR 10 PM 4:48
OFFICE OF THE
EXECUTIVE SECRETARIAT

Colin Marshall
President and Chief Executive Officer

March 6, 2014

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

Subject: BLM Federal Coal Leasing Program

Dear Secretary Jewell:

We would like to take this opportunity to present our views on the recent discussions regarding the Bureau of Land Management (BLM) federal coal leasing program. Specifically, questions have been raised regarding whether taxpayers are receiving Fair Market Value (FMV) for federal coal deposits and whether producers are colluding with BLM state offices to expedite or otherwise influence the process.

By way of background, Cloud Peak Energy Inc. (NYSE:CLD) is headquartered in Gillette, Wyoming, and is one of the largest and safest U.S. coal producers. Cloud Peak Energy (CPE) specializes in the production of low sulfur, subbituminous coal, nearly all of which is leased federal coal. The company owns and operates three surface coal mines in the Powder River Basin (PRB) which produced 86 million tons of coal last year. With approximately 1,700 employees, the company is widely recognized for its exemplary safety and environmental performance.

- CPE has participated in BLM federal coal leases for many years and believes the current process is rigorously followed by the BLM and producers and that it extracts the full value of federal coal for taxpayers.

- Through its lease, royalty and tax payments in 2013, CPE paid $360 million in taxes and royalties, and an additional $79 million for federal coal lease payments, in a year when net income for the company was $52 million.

- As BLM only accepts bids at or exceeding its estimated FMV, producers cannot underpay for federal coal. CPE believes our bids must regularly exceed FMV.

The Government Accountability Office's (GAO) report dated February 4, 2014, and a letter from U.S. Department of Interior Inspector General (IG) Mary Kendall, dated November 15, 2013, that was released by Senator Ron Wyden on February 7, 2014, examined BLM's process for leasing federally-owned coal reserves. There were several assertions made in the reports and subsequent public commentary which we believe misrepresent the coal leasing process that we are part of in Montana and Wyoming. Below each assertion we have explained CPE's position.

ASSERTION: Federal taxpayers are not getting Fair Market Value (FMV) from federal coal leases.

CPE POSITION: BLM establishes FMV without any disclosure to coal producers. The BLM only accepts bids at or exceeding FMV, so it is likely that producers will pay more than the government's established value, resulting in additional revenue for the federal and state governments over FMV. Overall, the GAO report highlights the more than $1 billion received annually through the leasing program. The $1.2 billion in 2012 represented a doubling in revenue since 2003. In 2013, CPE paid $79 million in federal coal lease payments.

ASSERTION: Coal leases are the only revenue for coal production from federal deposits.

CPE POSITION: Coal production generates taxes and royalties in addition to lease bonuses. Coal producers pay for the reserves twice: through the competitive auction for the right to mine the reserves, and then in addition as a percent of the sales price at the time of production as royalty payments as well as a number of extraction-related taxes that total around 30 percent. In 2013, CPE paid $360 million in taxes and royalties in addition to federal lease payments, in a year when net income for the company was $52 million. Simply examining one aspect of the lease, tax and royalty assessments leads to an overly narrow view of the value of federal coal production.

ASSERTION: Coal producers are colluding with BLM to set lower FMV.

CPE POSITION: CPE adheres to the 30-day "blackout" period during lease auctions. During the Lease by Application (LBA) process, companies are obligated to adhere to a presale 30-day "blackout" period during which there is no communication with BLM regarding the lease auction. Our experience has been that BLM abides strictly to this policy, and we confirm that CPE has not spoken to BLM during the blackout period.

ASSERTION: Because only one coal producer typically bids on a lease, there is the potential for underpayment on leases.

CPE POSITION: Because of the size and time associated with leasing federal coal, lease tracts in the PRB tend to be located adjacent to existing mine operations. The BLM is required to design tracts to encourage multiple bids and in our experience regularly splits tracts to this end.

As Sen. Mike Enzi (R-Wyo.) recently said, "It's a lot easier for a company to mine land next to where it already has operations than for a new company to come in and start from scratch. In that sense, it's understandable that some coal tracts only receive one bidder ... The BLM determines what a fair price is and if they don't get it, they don't lease it until they do. To claim otherwise is misleading."

ASSERTION: BLM has failed to take into account coal producers' Asian exports when determining FMV.

> **CPE POSITION:** The GAO report addresses export sales and their possible impact on fair market value determination: "The Wyoming and Montana BLM state offices considered exports, but they generally included only generic statements about exports in the reports they prepared. In the other seven states with leasing activity, exports were generally not considered during the appraisal process."
>
> The National Mining Association estimates that less than 3 percent of coal exported from the U.S. was leased by BLM in 2012. However, media coverage of the report neglected to provide any context for federally-leased coal. In 2012, very little southern PRB coal was exported due to low international prices. CPE's Spring Creek Mine, at around 5 million tons, is the largest exporter of PRB coal. That compares to total PRB production of 416 million tons for 2013, according to the Mine Safety and Health Administration. Our public financial filings show that, at current international prices, there is very little additional margin available above domestic sales prices. We are concerned that the economics and risks of the coal export market are not well understood. If additional discussion of the coal export market would be beneficial for you or your Department, we would be pleased to help.

The coal mined by CPE for domestic and export sales provided significant benefits to U.S. citizens through direct and indirect jobs, royalties and taxes and by providing low-cost electricity. Unfounded allegations aimed at discrediting a long-standing leasing process that captures significant value for the U.S., promoted by groups whose goals are to reduce U.S. coal production with little concern for the economic harm this would entail, should not be allowed to prevent additional benefits accruing to the U.S. public.

We would welcome the opportunity to provide additional information and details or to answer any questions that may arise from the information provided above.

Yours sincerely,

Colin Marshall

Colin Marshall

cc: Governor Matt Mead
Governor Steve Bullock
Senator Mary Landrieu, Chairman - Committee on Energy and Natural Resources, United States Senate
Senator Lisa Murkowski, Ranking Member - Committee on Energy and Natural Resources, United States Senate
Senator Mike Enzi
Senator John Barrasso
Senator Jon Tester
Senator John Walsh
Congressman Cynthia Lummis
Congressman Steve Daines