Statement for the Record - Alton Coal Development, LLC
Addressing Coal Mine Bonus Payments
House Natural Resources Subcommittee on Energy and Mineral Resources
Oversight Hearing Examining the President's FY 2024 Budget for the Bureau of Land Management & the Office of Surface Mining, Reclamation and Enforcement
May 26, 2023

The Department of the Interior has a long history of leasing federal land containing coal deposits to mining companies willing to mine those deposits under the Mineral Leasing Act of 1920. Successful bidders pay a per-acre lease rental as well as "bonus payments" that represent the fair market value of the lease. Coal mining, however, is presently facing multiple challenges in the United States.

Environmental NGOs often bring lawsuits seeking to stop coal leasing broadly, or to impede or stop individual leases as has happened, for example, in Utah. (*See, Utah Physicians for a Healthy Environment et al v. Bureau of Land Management,* Case No. 2:29-cv-00256 (D. Utah)). Further, in August 2022 the U.S. District Court for the District of Montana reinstated a federal coal leasing moratorium nationwide. These lawsuits and the coal leasing moratorium can make it difficult for lessees to continue mining operations.

At one mine in Utah, the mine plan progresses by mine block and requires a mine plan amendment for each added block. To progress from one completed mine block to another, the mining company is required to have approval of its submitted mine plan amendment from the State of Utah and the Department of Interior's Office of Surface Mining Reclamation and Enforcement. In view of the lawsuit and the moratorium, approval is unlikely. Without these approvals, the coal company will be prevented from exercising its exclusive rights under the lease to mine the coal within the lease. Under this scenario, however, a coal company cannot terminate and return the lease, and reclaim and close the mine.

The company in Utah paid a "bonus payment" of over $12,000,000 at the time the lease was issued. If it terminated the lease because of the moratorium and environmental lawsuit, the company would be owed more than $11,000,000 based on the amount of coal left in the ground. However, the coal leasing law – the Mineral Leasing Act of 1920, as amended (30 U.S.C. § 181-287 – has no statutory provision for reimbursing bonus payments for early mine closures. This breach of contract and simple fairness principles warrant reimbursement under these circumstances (e.g., energy transition, moratorium, policy-driven litigation).

In cases where a company has paid the required “bonus payment” for a federal lease well in advance of coal being extracted, but is unable to operate that mine, fairness and good faith requires that the U.S. reimburse any advance payments for coal that cannot be mined. In the face of potential mine closures due to the coal leasing moratorium, OSMRE and the Department of the Interior ought to reimburse companies that are not able to fully mine their leases.