

STATEMENT OF  
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ARCH COAL, INC.  
ON BEHALF OF  
THE NATIONAL MINING ASSOCIATION  
BEFORE THE  
U.S. HOUSE OF REPRESENTATIVES  
RESOURCE COMMITTEE  
ON  
"THE ROLE OF PUBLIC LANDS  
IN THE DEVELOPMENT OF  
A SELF RELIANT ENERGY POLICY"

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Mr. Chairman, my name is Terry O'Connor. I am Vice President of External Affairs for Arch Coal, Inc. I am appearing here on behalf of the National Mining Association (NMA) to testify on the important role that energy resources on federal lands, specifically coal resources, have in the development of strategies and policies to take the United States closer to the goal of being self-reliant for energy supply. Thank you for the opportunity to present the mining industries views on this subject.

### Summary

Affordable, reliable energy is a necessity for economic growth. Domestic, affordable and increasingly clean coal provides over 20% of all the energy that is used in the United States and is the fuel of choice for over 50% of the electricity generated in our nation today. Nearly 40% of our coal production is from mines located on federal lands. Over one-third of the nation's coal reserve is found on lands owned or controlled by the federal government. Forecasts show that over 90% of new production expected to come on line over the next 20 years will be from mines on federal lands. However, policies now in effect discourage, or prevent the exploration, development and investments that will be required to bring this new production on line. This Congress has an opportunity to change current policy direction to ensure that the vast resources on federal lands can contribute towards the goal of energy self-sufficiency while at the same time ensuring that both the environment and the economies of the regions in which these resources are located are protected and advanced.

### General Introduction

Arch Coal, Inc headquartered in St. Louis is the second largest coal producer in the United States. In 2000, our operating subsidiaries mined more than 107 million tons of coal – nearly 10 percent of the nation's production – from surface and underground mines in Wyoming, Colorado, Utah, Illinois, West Virginia, Kentucky and Virginia. Arch shipped coal to approximately 140 power plants in 30 states providing the fuel for 6% of the electricity used by Americans last year. Arch owns or controls approximately 3.2 billion tons of coal reserves including reserves on federal lands.

In 2000 our company mined nearly 65 million tons of low-sulfur, sub-bituminous coal from our two large surface mines in the Powder River Basin ("PRB") of Wyoming, Black Thunder and Coal Creek mines. We also produced 3.4 million tons in our West Elk Mine in Colorado and 9.4 million tons in three mines in Utah. This coal is almost exclusively mined on federal lands. One of Arch Coal's highest priorities is to operate safe and environmentally responsible mines. Our production and reclamation experience on our mines on federal lands are prime examples of the way that our priorities are met.

The National Mining Association represents producers of coal, metals and non-metal minerals, as well as manufacturers of processing equipment, machinery and supplies, transporters, and engineering, consulting and financial institutions serving the mining industry. The members of National Mining Association produce over 80% of America's coal, a reliable, affordable, domestic fuel choice used to generate over 50% of the electricity used in the nation.

## A Balanced National Energy Strategy is a Basic Element of Our Nation's Economic Future.

Mr. Chairman we would like to commend you for holding these oversight hearings on the need for a balanced national energy strategy. Energy, whether it is from coal, oil, natural gas, uranium or renewable sources, is the common denominator that is imperative to sustain economic growth, improve standards of living and simultaneously support an expanding population. Affordable and reliable energy – much of it from coal produced on federal lands - has made the last decade of expansion possible. The recent sharp increase in the overall cost of energy along with concerns over current and future supplies together remind us of the importance of affordable energy as these factors are, in part, behind the downturn in the economy that is now occurring.

The policies of the past eight years have actively discouraged and even prevented investments in domestic energy supplies and in the energy delivery infrastructure on both public and private lands. As a result no energy source be it petroleum, natural gas, coal or uranium is in a position to quickly increase output, to even to meet the new demands that are forecast. Our energy supply industry has not been able to make the investments or develop and maintain the infrastructure that is necessary for the future. The policies that have discouraged or outright prevented development must be identified and reversed. The United States is fortunate to have a large domestic energy resource within our borders but, to even approach energy self-sufficiency our policy direction must be returned to one that encourages environmentally sound development and use of our nation's vast energy resource base.

Forecasts of future energy demand all consider technological advances, conservation and increased efficiency. But all forecasts also point to an increase in energy demand. For example, the Energy Information Administration (EIA) is predicting that energy use will increase by over 32 percent by 2020. Meeting this demand with reliable affordable energy while maintaining our high environmental standards will be a challenge, but a challenge that can be met with the correct policies that consider and enhance the role of all energy sources, including those sources found on federal lands.

### The Role of Coal in US Energy

Coal reserves, which are geographically distributed throughout the US, comprise the greater share of the nation's energy resource base. The demonstrated coal reserve is over 500 billion tons, a reserve large enough to support a growing coal demand for over 200 years. In 2000, 1.1 billion tons of coal were produced in mines located in 26 states. Coal, or electricity generated from coal is used in all 50 states. The coal industry contributes some \$161 billion annually to the economy and directly and indirectly employs nearly 1 million people.

Last year 1.026 billion tons of coal were used to generate over 50 percent of all electricity used in the US. Although this is more than triple the amount of coal used for electrical generation in 1970, emissions have declined by over one-third. The Energy Information Administration forecasts show that electricity use will increase by another 35% by 2020 and that coal use for electricity will total at least 1.25 billion tons in 2020, some 250 million tons or 20% more than is currently burned. Meeting electricity demands will require construction of new power plants including coal fired power plants. Although beyond the scope of this hearing, a national energy strategy must include

provision for incentives that allow companies building these new plants to assume the risks of commercializing new advanced clean coal technologies. The mining industry supports legislation designed to provide a measure of burden-sharing to cushion the cost of improving the environmental performance of existing coal-based generating facilities and to stimulate deployment of advanced technologies to further reduce emissions and improve efficiency in new generating facilities.

Coal fired electricity is and will remain the most affordable electricity available. Electric rates in regions dependent upon coal for electricity average at least one-third lower than rates in regions dependent upon other fuels for electricity. Forecasts show that these differentials will remain in place over at least the next twenty years.

Because coal is a domestic energy resource that is reliable, affordable and, with new advanced clean coal technologies, increasingly clean, coal can and should continue to play a major role in meeting the energy needs of our nation in the future. Coal production will increase and nearly all this new coal will be from reserves located on federal lands.

### Coal On Federal Lands

Coal mined on federal lands provides a vital portion of the nation's domestic energy supply. In 2000 approximately 405 million tons of coal, 37 percent of national production, were mined on federal lands. Considering western production only, a full 80 percent came from mines on federal lands and, considering that the majority of privately held western reserves are on lands that are effectively controlled by federal land policies one can assume that 85% or more of the growing western coal industry depends upon federal land management policies. Coalmines on federal lands are found in Colorado (89% of production within the state), Montana (46%), New Mexico (24%), North Dakota (7%), Oklahoma (35%), Utah (88%), Washington (33%) and Wyoming (92%). Less than 0.1 percent of coal production on federal lands - 365,000 tons - were from lands located in the Appalachian states (Alabama and Kentucky).

Coal produced on federal lands contributes directly to local economies in a positive way. In 2000, this coal was worth an estimated \$3 billion. Production activities provided high paying jobs for over 15,000 workers in 2000, paying wages in excess of \$600 million. Considering both direct and indirect economic benefits, coal produced on federal lands provided employment for nearly 150,000 workers with wages of over \$3.5 billion dollars.

Coal produced on federal lands contributed nearly \$400 million to state and local tax revenue. Royalties paid to the Federal Government were an estimated \$330 million in 2000.

The benefits of coal mined on Federal Lands do not remain within the region as this coal is shipped to electric generators in 30 states. Major destinations outside the western region include generators in Michigan, Minnesota, Illinois, Indiana, Iowa, Wisconsin, Texas, Kansas, and Arkansas with some being shipped as far as Alabama, Mississippi and Georgia. Taken as a whole, coal mined on federal lands is used to generate nearly 40% of all electricity generated from coal, or approximately 20% of all electricity produced in the US. This is not an insignificant amount being enough to supply electricity to the entire South Atlantic census region or to all the customers in the East North Central and West North Central states combined or to 3.2 Californias.

The Federal Government owns about one-third of the Nation's coal resources, which are located on approximately 76 million acres of land principally in the Western United States. Western federal lands contain approximately 60 percent of the total western coal reserve base. An additional 20 percent of the coal resources in the West are managed or impacted by the Federal Government by virtue of (1) the commingling of State and private coal reserves with Federal leases and (2) trust responsibilities for Indian lands.

It is important to note that the enormous coal reserves on federal lands include some of the best coal from an environmental standpoint. Many of the reserves, especially those located in Wyoming and Montana, are low in sulfur and also low in inherent NO<sub>x</sub> when burned in power plants. These coals are ideally suited to meet the increasingly stringent emission requirements of the Clean Air Act Amendments of 1990 and the regulations that EPA has promulgated.

Whether viewed as an environmental, an economic or as a domestic energy security and reliability issue, continued coal production from reserves on federal lands is critically important to the economy and the well being of the United States. Energy, especially electricity would not be as readily available or as affordable if it were not for coal from federal lands.

Coal from federal lands is projected to increase over the next two decades. The EIA Annual Outlook 2001 forecasts shows that over 90% of the expected 250 million tons increase in US coal production will come from coal reserves located on federal lands. If this forecast is to be realized policy changes must occur.

#### **Policies Should Encourage, not Discourage or Prevent Responsible Development Of Coal Resources On Federal Lands.**

Interpretations of legislation over a long period of time added to the policies of the previous Administration over the last eight years have acted to discourage or actually prevent responsible development of coal resources on Federal Lands. There are several issues that need to be considered the first of which is access to the resources located on federal lands for responsible exploration and development activities. Large reserve blocks have already been effectively removed from development by actions by the Federal Government. To cite just two examples:

- According to the US Geological Survey, the unsuitability provisions under SMCRA (the Surface Mine Control and Reclamation Act of 1977) and land use planning policies under FLPMA (the Federal Land Policy Management Act) have removed some 53 billion tons of federal coal from future leasing which in effect reduces the National surface mineable reserve base by almost 25 percent.<sup>1</sup>
- The previous Administrations use of the Antiquities Act to create National Monument designations removed additional blocks of reserves from development. In 1996, this Act was used to create the Grand Staircase-Escalante National Monument removing 23 billion tons of mineable coal reserves in Utah's Kaiparowits coalfield.

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<sup>1</sup> W.D. Watson, "Opportunity Costs of Federal Land-Use Restrictions for U.S. Coal Markets (1992)

Pending actions, such as the Forest Service Roadless Area Conservation Rule will remove even larger portions of the coal reserves located on federal lands from responsible development.

### Forest Service Roadless Conservation Areas

This Committee, and its members who serve on the Forest and Lands Subcommittee in particular, know well the history and the effects of the last administration's Roadless Area Conservation rule that was published on January 12, 2001. The lack of available information regarding affected areas of Forest Service administered lands made it extremely difficult for mineral developers to determine the impacts of the rule. Since the Forest Service did not identify or consider mineral resources in its draft environmental impact statement, industry had to create its own maps by identifying proposed roadless areas and areas containing known mineral resources on a forest-by-forest basis. The results of this exercise were particularly staggering, especially for leasable federal minerals such as coal. In fact, the implementation of this rule could sterilize over 40% of the coal production in Colorado and Utah.

According to the Department of Energy:

"The roadless initiative will have an impact on coal reserves in Colorado and Utah, including both the expansion of existing mines and tracts of coal of near-term commercial interest. While these resources are recovered using underground mines, roads are needed to build ventilation shafts and for safety, e.g., to fight underground fires. The mines would not be built or expanded if roads cannot be constructed.

Existing leases may also be affected... <sup>2</sup>

In Colorado, one of the mines in the Grand Mesa-Uncompahgre Forest is my company's, Arch Coal, West Elk Mine where 200 million tons of coal could become unrecoverable because of the rule. This loss of reserves will result in the premature abandonment of the mine and its \$100 million infrastructure. The DOE report predicts that over \$10 billion economic activity would be lost as a consequence.

The Bowie Mine in the Grand Mesa-Uncompahgre Forest will be blocked from developing 50 million tons of high quality coal reflecting over 2.5 billion in economic activity. The Oxbow Mine, adjacent to the Bowie leases is surrounded on the east and north by roadless areas. These roadless prohibitions will thwart future development at this operation.

The Forest Services Final Environmental Impact statement for the roadless rule declares that in Utah's Manti-La sal Forest three tracts alone account for 185 million tons of high Btu coal that are prejudiced by the rule. Further investigations of coal resources in the area indicate the impact could be much greater.

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<sup>2</sup> Department of Energy Report to the Forest Service, William Hochheiser (November, 2000)

The Forest Service chose to accept these severe prescriptions even though mine roads are temporary and the Surface Mining Control and Reclamation Act (SMCRA) mandates that these roaded areas be reclaimed to a condition as good or better than they were before mining. It should be noted that surface coal mines cannot be permitted on Forest Service administered lands unless the Secretary of Interior "finds that there are no significant recreational, timber, economic, or other values which may be incompatible with such surface mining operations..." In other words, the values the rule is supposed to safeguard have already been considered and protected by an existing statute. Yet, millions of tons of low sulfur coal have been sterilized by this needless and unlawful regulation.

### **Federal Leasing**

In August 1976, the Federal Coal Leasing Amendments Act ("FCLAA") was enacted. FCLAA's imposed for the first time a series of radically more stringent requirements upon federal coal lessees, the compliance with which forced such lessees to make a host of major financial and operational commitments, many of which made good policy sense but others were counterproductive. Over the past 25 years, those federal coal lessees who have managed to stay in business have fully complied with both the rational and the questionable requirements.

Federal coal lessees are not today calling for major reform of the FCLAA program, although over time certain of FCLAA's provisions ultimately may need to be revisited and modified. Even where modifications ultimately may be needed, in most instances, the debate on such modifications can be deferred to a later time when adverse impacts become more focused and imminent. There are two areas that need attention however.

#### **1. Advanced Royalty Provisions**

The first issue that must be addressed is a segment of FCLAA's current "advanced royalty" provisions, which call for early legislative reform by Congress. The current advance royalty provisions provide, among other items, that:

- Advance royalties may not be paid for more than an aggregate of 10 years,
- Advance royalties paid during the initial 20 year term of a lease may not be carried over past the 20<sup>th</sup> year, and
- The Secretary of Interior may unilaterally cease to accept advance royalties.

With the progressive deterioration of U.S. coal market prices, several federal coal lessees have been forced temporarily to curtail production or to idle uneconomic mines.

We recommend that narrowly drafted, surgical changes be made to FCLAA's advance royalty provisions which would:

- Extend the aggregate entitlement to pay advance royalty in lieu of continued operations from 10 years to 20 years;

- Delete the current prohibition on the carry-over of advance royalty payments made during the initial 20-year period of the lease;
- Delete the current authorization for the Secretary unilaterally to cease to accept advance royalties in lieu of continued operations; and
- Delete the last sentence of Section 39 of the MLLA of 1920 (Section 14 of FCLAA) prohibiting the waiver, suspension, or reduction of advance royalties.

## 2. Address the Need to Move Expeditiously on Lease-Buy Applications

The Federal Coal Leasing Amendments Act of 1976 ("FCLAA") requires that all leases for federal coal be conducted by a competitive leasing process. One of the mechanisms for initiating competitive leasing is through a lease-buy application ("LBA") procedure, which allows an existing coal mining operation to nominate a tract for the expressed purpose of prolonging the life of the existing mine. The LBA process has been effectively used in Utah, Colorado and Wyoming for over a decade now. In the Powder River Basin ("PRB") of Wyoming, which is called by many the "Saudi Arabia of coal", since that area is producing in excess of 1/3 of all U.S. coal, the LBA process has been critical to the orderly development of federal coal reserves.

As pointed out, coal production in the PRB has jumped dramatically since the Clean Air Act Amendments of 1990 primarily because western coals are typically very low in sulfur and also very low in inherent NOx when burned in power plants. With this dramatic increase in demand for low sulfur western coal has come the need for continued access to Federal coal reserves. Western coal producers clearly recognize this need and make their leasing plans accordingly. Unfortunately, the Bureau of Land Management now is only processing and holding one Federal coal lease sale per year in the Wyoming PRB. Thus, the most recent coal lease applications filed may not be offered for sale for eight years. Permitting requirements will then add another approximately three years. As a consequence, it is readily apparent that there is an excessive backlog of Federal coal lease applications on file and that the timeframe for processing LBAs and issuing leases has become unacceptable to orderly development of this most important domestic energy resource.

There are several administrative opportunities to address this backlog. The first opportunity is to consolidate the NEPA process instead of conducting separate EIS's for each lease application. Several LBAs should be combined into one document. Second, and even more importantly, the Department of Interior expeditiously should evaluate the workload of other BLM offices to determine if there are any personnel available to help work through this backlog. Finally, and of relevance to this hearing, Congress should give favorable consideration to supporting additional federal funding for the processing of these lease applications in order to short the intolerable backlog.

### Coal/Coal Bed Methane Conflict in the Powder River Basin

The Powder River Basin of Wyoming and Montana is one of the world's richest energy resource regions and includes the largest reserves of low sulfur coal in the United States. Virtually all of the coal and about 50 percent of the oil and gas reserves in the Basin are owned by the federal government and managed by the Bureau of Land



Management (BLM) under the Mineral Leasing Act of 1920. Problems have arisen, because BLM has issued federal coal leases and federal oil and gas leases for the same locations in the Basin. In many cases when these oil and gas leases were issued coal bed methane resource development was not contemplated.

In those areas leased both for coal and oil and gas, disputes over timing of mineral development have arisen. The sequence of development frequently becomes a critical issue, because the production of any one of the minerals can result in the loss of another. For safety and operational reasons, concurrent development typically is impossible. No clear statutory direction exist to resolve disputes over the sequence of mineral development in these areas where the federal government has "double leased" its minerals. BLM has not provided effective guidance or included conditions in its leases that would provide a resolution to these disputes.

In order to achieve optimum recovery of the Basin's energy assets, legislation that would provide the missing statutory direction to resolve these mineral development contests should be enacted. Legislation should be used only in the conflict areas of the Powder River Basin and only as a last resort if private negotiations and BLM administrative policies fail.

#### **Mineral Management Service Administrative Appeals Process**

Under Department of Interior (DOI) rules promulgated in 1973, the Minerals Management Service (MMS) is the only DOI agency with an intermediate appeal to the director of the agency. All other DOI agency appeals go directly to the Interior Board of Land appeals (IBLA). The principal purpose of the MMS administrative appeals process should be the expeditious and independent review of cases involving disputed facts, legal issues, or policy upon request of the adversely affected party. This two-stage process can extend 5 to 7 years, even before the controversy can enter the courts.

In spite recommendations from a Federal Advisory Committee urging Secretary of Interior Babbitt to direct MMS develop a one-stage process for all MMS appeals, the Secretary decided to retain the current two-tier process. He made this decision even though he stated in the decision document that he agreed with the Advisory Committee's report in support of its recommendation.

The current unwieldy appeals process needlessly ties up what may be considerable industry resources with no competing benefit. The Department should revisit Secretary Babbitt's ill-advised decision and implement a streamlined appeal process like that used by all other DOI agencies. This action would save the agency and the industry time and resources.

#### **Revitalizing the Abandoned Mined Lands Program**

The 1977 Surface Mining Control and Reclamation Act, SMCRA, mandates that lands disturbed by coal mining be restored to their premining conditions. Inactive mines are addressed through the Abandoned Mine land, AML, provisions which require coal operators to pay at fee to the Office of Surface Mining's AML fund of 35 cents per ton for surface mined coal and 15 cents per ton for underground mined coal. The funds are used to clean up pre-SMCRA abandoned sites. The fee has been extended twice and is currently set to expire at the end of FY-2004.

To date \$5 billion in contributions have been paid by the coal industry into the fund but only \$1.3 billion in Priority 1 and 2 reclamation work has been completed. Approximately \$2.5 billion in work remains to be completed and the AML fund currently has an unappropriated balance of \$1.5 billion. This has occurred because annual appropriations have been significantly less than the fees paid by industry and the distribution formula is out-of-date and does not reflect significant increases in western production. Further, the fund is paying for excessive Federal and state administrative costs of approximately \$45 million annually.

The coal industry believes that 2001 provides a unique opportunity to reform the AML program. The coal industry would support an extension of the AML program if additional funds are dedicated to clean up of the remaining Priority 1 and 2 areas and if the current fee structure is reduced beginning in FY-2002. Suggested program reform should include a major reduction in administrative costs and a freeze on the inventory of eligible reclamation projects. These actions would give long-term financial stability to the various state AML programs and would ensure that the Surface Mining Act's original environmental goals are achieved and that reclamation is completed more quickly and effectively.

### The Thunder Basin National Grasslands

There is a goal that is stated in the Thunder Basin National Grasslands (TBNG) Draft Management Plan that purports to: "conserve air quality-related values over Class I and Class II airsheds.

The U.S. Forest Service claims additional responsibility and authority with respect to air quality-related values on all federal lands (Class I and Class II) via broad interpretation of the Organic Administration Act of 1897, Wilderness Act of 1964, the Forest and Range Renewable Resources Planning Act as amended by the National Forest Management Act of 1976. Additionally, The Federal Land Managers' Air Quality-Related Values (AQRV) Work Group (FLAG) published a "guidance document" on December 29, 2000. This guidance seeks to identify AQRV's and define adverse impacts in Class I areas. This document also purports authority for Class II areas under management by USFS, US Fish and Wildlife Service and the National Park Service via broad interpretations of various Acts delegating authorities to the aforementioned Federal Land Managers.

Currently, the Wyoming Air Quality Division does not evaluate the effect of new or expanding surface coalmines on Class I (or II) areas with respect to Air Quality-Related Values. This is mainly because these particular facilities do not meet the criteria of major facilities under the Prevention of Significant Deterioration sections of the state or federal air quality rules and regulations.

However, the federal land managers have recently begun to require an evaluation of cumulative impacts to air quality-related values (specifically visibility) in Class I and selected Class II areas as part of the NEPA process for federal actions such as leasing federal coal. This action is out of the State of Wyoming's direct jurisdiction, as opposed to the permitting program where the Wyoming Air Quality Division is the lead agency.

This practice is especially concerning in light of the fact that six (6) new "Special Interest Areas" are being proposed as part of the Thunder Basin Grasslands Draft Management Plan. These areas were originally proposed for "Wilderness" designation in the draft plan and are also considered "roadless". These areas are located from six to thirty (6) to (30) miles from five (5) existing surface coalmines. Each of these mines has a history of continued leasing interest for federal coal reserves located adjacent to the existing operations. The additional leases serve to allow the continuation of these operations. Each of these five (5) mining operations submitted applications for additional leases in the year 2000. Representatives of the USFS Douglas Ranger District have noted in past discussions that these Class II "Special Interest Areas" would likely be reference points in computer modeling evaluations of Air Quality-Related Value impacts during the leasing process. There is very little doubt that significant impacts will be predicted considering the vicinity of the proposed special areas to the mining operations and the highly conservative nature of the modeling tools used for these purposes.

Risks: The possibility exists that predictions of significant impacts from existing and expanding coal mine operations within the general area of these proposed "special" areas could negatively affect the ability to continue leasing federal coal reserves.

Five (5) large surface coalmines are located either wholly or partially on the Thunder Basin National Grassland, which is located in the southern Powder River Basin and is managed by the U.S. Forest Service. These five (5) mines produce federally owned coal with the lowest sulfur content of any coal mined within the Powder River Basin and the United States. Of the 316 million tons of coal produced in the Powder River Basin of Wyoming in 1999, 178 million tons or fifty-six percent (56%) were shipped from these five (5) mines. In 1999, these five (5) mines provided over sixteen percent (16%) of all U.S. produced coal.

In 1999, the average production rate of the five (5) mines on and adjacent to the Thunder Basin National Grassland was approximately 36 million annual tons each. At these production rates, the mines must periodically replenish reserves by applying for and purchasing new federal coal leases through the Bureau of Land Management's (BLM) Lease-by-Application, (LBA) process. Historically, the mines on and adjacent to the Thunder Basin National Grassland have applied for new federal coal leases through the LBA process every five (5) years beginning in 1989 to present.

Impacts: Currently, applications for coal leases in the Powder River Basin filed with BLM and pending sales total nearly 2.3 billion tons of mineable reserves. The pending lease reserves represent one-hundred forty percent (140%) of the coal lease sales that occurred for the five (5) years of very active coal leasing from April 1995 through the end of 2000. This indicates the strongest interest in coal leasing in the region since initial establishment of extensive mining operations in the late 1970's and early 1980's.

The pending lease reserves represent an amount equal to 86% of the total federal reserves of coal leased in the Powder River Basin from 1991 through 2000. The coal volumes in the pending lease applications represent approximately \$560 million in bonus bids alone, to be shared equally by the federal treasury and the state where the lease is located.

The \$560 million in potential bonus bids does not take into consideration 12.5% production royalty payments. Another \$1.1 billion will be generated (assuming an

average prices of coal over time of \$4.00 per ton). These royalty payments are fifty-fifty (50:50) between the federal treasury and the appropriate state.

Five (5) of the pending eight (8) federal leases will be located on or immediately adjacent to the Thunder Basin National Grassland. Future coal lease applications can and will involve USFS managed surface.

### Regional Haze

EPA's Regional Haze rule has the potential to impact energy production and generation on federal lands in several different ways:

- Siting – modeling of new state-of-the-art sources can show an impact on Class I Areas (national parks, wilderness areas, etc.). This modeling effort can have the result of denial of a permit and force the abandonment of the project.
- The Federal Land Managers will have two bites at the apple under the Regional Haze Rule: the first is regional haze Best Available Retrofit Technology (BART) in which targeted emission reductions are met based upon overall technology assumptions in a region. This approach allows for the regulated community to have flexibility in meeting the reductions by over complying in one area to meet the reduction goals. The second bite is reasonably attributable BART, in which an impact in a Class I area is tied to a specific source (based upon modeling). The dual regulatory program virtually eliminates any flexibility and cost-effectiveness achieved through a market based program.
- As an example, the western United States is far ahead of the rest of the country in addressing Regional Haze. The modeling analysis showed that throughout the range of potential emission reductions (moderate to extreme), there is no perceptible improvement in visibility.
- A review of assumptions made in the western plans needs to be initiated. The plan was developed at a time of low natural gas and oil prices, and at a time when it was believed that virtually all new electric generation plants would be fired by natural gas. Assumptions regarding fuel price and the demand for electricity (growth) need to be re-evaluated to ensure that the proposed caps on SO<sub>2</sub> do not inadvertently impact the development of new sources.

### Electric Power Plants Built Near Western Coal Fields Can Help Solve Electricity Shortfalls, But Changes Need To Be Made In Permitting Transmission Lines.

An electric transmission system providing operational and investment certainty is a key element in a coherent and effective energy policy. For companies to invest in new power plants providing affordable energy, there must be significant reform of permitting and siting regulations not only for the plants, but for the transmission lines and facilities that follow. The lengthy and uncertain permitting process is the problem, not the environmental protection required. We would recommend federal action reducing the permitting and review timeframes required. We would further recommend a Congressional or Executive directive fashioned along the lines of the Executive Order addressing California's energy needs. That order gave DOE lead responsibility in

ensuring priority focus on siting and permitting action by the various federal agencies involved, and facilitating those actions with the appropriate state authorities. We also encourage the Congress to put in place an expedited and simple permitting and siting processes for the vast areas of Federal Lands in the West, which need to be crossed by transmission lines.

In addition to permitting and siting reform, uniform and enforceable rules governing the operation of the transmission system are needed. Our current and arguably antiquated power grid was designed for localized demand and reliability. Electricity today must be wheeled between states and regions. Given the interconnected nature of the nation's transmission system, it is critical to optimize system reliability and consumer benefit by ensuring that the state and federal governments enter into an effective regulatory partnership. However at present, it is still uncertain who will own or operate the lines, what rate of investment return will be allowed, and what will be the transmission charge. The absence of uniform and enforceable rules has delayed investment in improvements to the grid. The grid must be operated as an integrated entity, not a balkanized confederation.

Mr. Chairman, this concludes my comments, I would be happy to respond to your questions.