

Legal Oversight on Western Coal Mine Expansions

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I. Importance and Context

- A) Large reductions in CO₂ emissions needed to start stabilizing CO₂ atmospheric levels
- B) Coal use typically largest single source of CO₂
- C) Approx 40% of U.S. coal comes from the Powder River Basin (PRB) in Wyoming;
- D) PRB coal shipped to many coal plants in the Midwest; some to Georgia and Ala.
- E) Colorado and Utah are smaller sources of coal but also important regionally
- F) Alt. to coal is to create national grid and ship carbon free electrons instead of coal
- G) Principle of “shipping electrons, not coal” can be applied to China and India

II. Geologic and Economic Constraints

- A) Claims of “hundreds of years of coal,” are generally referring to the PRB
- B) Powder River Basin is a large “bowl” that has filled with dirt over 55-60 million years
- C) Increasing “overburden” will significantly increase cost of producing coal
- D) Most coal mines in the PRB have expected life spans of 15-25 years
- E) Rail access out of the PRB is significantly constrained

III. Examples of Previous Coal Mine Expansions That Went Largely Unopposed

- A) South PRB (2003)—4 Mines—Over a billion tons of coal leased
- B) West Hay Creek (2004)—Buckskin Mine—Approx. 150 million tons of coal leased
- C) Maysdorf (2007)—Cordero Rojo Mine—Over 200 million tons of coal leased
- C) Eagle Butte West (2007)—Eagle Butte Mine—Over 200 million tons of coal leased

IV. Pending Coal Mine Expansions

- A) Wright Area Coal EIS—Three Mines—Quantity of coal unknown but will be large
- B) Scoping began in 2007; Scoping comments submitted by NRDC and Leslie Glustrom
- C) Wright area is area in the PRB that produces the most coal; these are big mines
- D) Other PRB and western mines likely to apply for expansions in the coming years
- E) Previously approved expansions often only provide 10-15 year life expansions

V. Examples of Legal Strategies

- A) National Environmental Policy Act (NEPA)
- B) Endangered Species Act (ESA)
- C) Clean Air Act (CAA)
- D) Clean Water Act (CWA)
- E) Surface Mining Control and Reclamation Act (SMCRA)
- F) Case law on CO₂ (e.g. Massachusetts v. EPA 127 S. Ct. 1438 (2007))
- G) Pending global warming legislation
- H) Future global warming legislation (e.g. rebuttable presumption against coal mine expansion)
- I) State and local approval processes

VI. Related Strategies

- A) Raise awareness of rising costs of coal and geologic and transportation constraints
- B) Promote alternative of national transmission for shipping carbon-free electrons (e.g. Proposal of AEP)