



February 23, 2009

**BY E-MAIL AND U.S. MAIL**

Bureau of Land Management  
Casper Field Office  
Attn: Sarah Bucklin  
2987 Prospector Drive  
Casper, WY 82604  
[casper\\_wymail@blm.gov](mailto:casper_wymail@blm.gov)

**Re: Supplemental Comments on West Antelope II Coal Lease Application Final Environmental Impact Statement**

Dear Ms. Bucklin:

WildEarth Guardians and the Sierra Club submit the following supplemental comments on the Bureau of Land Management's ("BLM's") final environmental impact statement ("FEIS") for the proposed West Antelope II coal lease by application ("LBA") in the Powder River Basin of Wyoming (hereafter "West Antelope II LBA"). These comments supplement those we submitted on January 20, 2009 via e-mail.<sup>1</sup> The LBA includes one tract adjacent to the West Antelope coal mine. For the foregoing reasons, we oppose the proposed LBA and request the BLM withdraw its proposal to offer for lease the tract. We consider these comments to be timely filed. The BLM printed a notice of availability of the FEIS on January 23, 2009, indicating an additional 30 day public comment period was being provided. *See* 74 Fed. Reg. 4228-4229.

WildEarth Guardians is a regional nonprofit environmental advocacy organization dedicated to protecting and restoring the American West. With members throughout the region, WildEarth Guardians works to safeguard the climate, the clean air, the clear water, and wildlife of the West. WildEarth Guardians Climate and Energy Program seeks to develop clean energy solutions and to effectively confront fossil fuel development to ensure the nation meets its goals of urgently combating climate change and developing a sustainable and prosperous economy. WildEarth Guardians has members throughout Wyoming, including the Powder River Basin region.

The Sierra Club is a national nonprofit organization of approximately 1.3 million members and supporters dedicated to exploring, enjoying, and protecting the wild places of the

---

<sup>1</sup> Exhibits to our January 20, 2009 comments were sent via U.S. Mail due to the large size of the electronic copies of these exhibits.

earth; to practicing and promoting the responsible use of the earth's ecosystems and resources; to educating and enlisting humanity to protect and restore the quality of the natural and human environment; and to using all lawful means to carry out these objectives. The Sierra Club's concerns encompass global warming, air quality impacts, water quality, wildlife, and other environmental concerns. The Sierra Club's highest national priority campaigns is its "Move Beyond Coal" Campaign, which aims to transition the nation away from coal and toward clean energy solutions. The Wyoming Chapter of the Sierra Club has approximately 1,029 members in the state of Wyoming.

## **I. Global Warming Impacts**

- **Authorizing More Global Warming is not in the Public Interest**

It is undisputed that anthropogenically generated carbon dioxide and other greenhouse gases present a substantial endangerment to the health of persons and the environment and that denial of the West Antelope II LBA is necessary to protect the health of persons and the environment. Indeed, the BLM discloses in the FEIS that coal from the West Antelope II LBA will be burned, generating massive amounts of carbon dioxide. The BLM itself has disclosed that coal from the Powder River Basin of Wyoming is responsible for 13.9% of the United States' greenhouse gas emissions. *See* FEIS at 4-104. Indeed, the BLM shall deny any LBA if the leasing of lands for environmental or other sufficient reasons would be contrary to the public interest. *See* 43 CFR § 3425.1-8.

Climate change is the most-serious threat to public health and the environment facing the world today. The undisputed evidence is that climate change, including dangerous increases in temperature, primarily attributable to human emissions of carbon dioxide and other greenhouse gasses is occurring now, and has already caused harm to the health of persons and the environment. Unless effective measures to address climate change and its consequences are implemented in the immediate future, harm to human health and the environment of unprecedented severity and scope, including additional loss of human life and collapse of entire ecosystems may result. The need to act urgently to reverse global warming is especially apparent in light of recent findings by scientists indicating that "the pace of global warming is likely to be much faster than recent predictions, because industrial greenhouse gas emissions have increased more quickly than expected and higher temperatures are triggering self-reinforcing feedback mechanisms in global ecosystems[.]"<sup>2</sup>

WildEarth Guardians, the Sierra Club, and its members have submitted numerous pieces of scientific information and comments disclosing and discussing the effects of global warming and the need for the BLM to urgently address the problem. The BLM has similarly disclosed in the FEIS scientific information and analysis documenting the contribution of coal mining in the Powder River Basin and subsequent coal burning to greenhouse gas emissions. In light of the clear link between anthropogenic greenhouse gas emissions and global warming, as well as the massive impact Powder River Basin coal has on overall greenhouse gas emissions within the

---

<sup>2</sup> *See* Exhibit S-1 to these comments, Lydersen, K., "Scientists: pace of climate change exceeds estimates," *Washington Post* (February 15, 2009).

United States, the BLM has clear reason to reject the West Antelope II LBA pursuant to 43 CFR § 3425.1-8.

- **Cumulative Global Warming Effects have not been Adequately Analyzed**

As we discussed in our January 20, 2009 comments, the BLM has failed to analyze and assess the cumulative impacts of other actions undertaken by the Department of Interior on global warming. In our comments, we cited a number of projects authorized or proposed to be authorized by the Department of Interior through its various agencies, including the BLM.

In addition to the projects authorized or proposed to be authorized by the Department of Interior identified in our January 20, 2009 comments, there are a number of other projects that release greenhouse gases and cumulatively contribute to global warming, that are under control by the Department of Interior, and that therefore must be addressed pursuant to the National Environmental Policy Act (“NEPA”). *See e.g.*, 40 CFR § 1502.16 (an EIS “will include the environmental impacts of the alternatives including the proposed action”); 40 CFR § 1508.8 (effects include “ecological (such as the effects on natural resources and on the components of, structures, and functioning of affected ecosystems), aesthetic, historic, cultural, economic, social, or health, whether direct, indirect, or cumulative”); and 40 CFR § 1508.7 (cumulative effects are defined as “the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions”). The additional projects authorized or proposed to be authorized by the Department of Interior and its agencies include:

- Numerous other coal leases proposed in the Rocky Mountain West, including the West Coal Lease Modifications proposed in January 2009 by the BLM in the Price Field Office of Utah;<sup>3</sup>
- The Greens Hollow coal lease proposed in 2008 by the BLM in the Price Field Office of Utah;<sup>4</sup>
- The Peabody Twentymile Coal Company Application for Coal Lease approved in 2008 by the BLM in the Little Snake Field Office of Colorado;<sup>5</sup>
- The Absaloka Mine South Extension Coal Lease approved in 2008 by the Bureau of Indian Affairs on the Crow Indian Reservation in Montana;<sup>6</sup>
- The Pit 14 Coal Lease by Application approved in 2007 by the BLM in the Rock Springs Field Office of Wyoming;<sup>7</sup>
- Numerous oil and gas drilling permits, including the Big Hole Federal Well #31-27 authorized in 2008 by the BLM in the Little Snake Field Office of Colorado;<sup>8</sup>
- The Red Cliff coal mine proposed in 2009 for authorization by the BLM in the Grand Junction Field Office of western Colorado;<sup>9</sup> and

---

<sup>3</sup> See Exhibit S-2 to these comments.

<sup>4</sup> See Exhibit S-3 to these comments.

<sup>5</sup> See Exhibit S-4 to these comments.

<sup>6</sup> See Exhibit S-5 to these comments.

<sup>7</sup> See Exhibit S-6 to these comments.

<sup>8</sup> See Exhibit S-7 to these comments.

- Tar sands and oil shale development proposed in 2008 by the BLM for Colorado, Utah, and Wyoming.<sup>10</sup>

Again, the BLM must consider the impacts of its proposal to authorize the West Antelope II LBA cumulatively with other Department of Interior activities that also contribute to global warming. Such an analysis must be completed to ensure the BLM can provide a rational and justified basis for making a finding pursuant to 43 CFR § 3425.1-8 as to whether the LBA will contribute to environmental impacts that are not within the public interest.

- **Other Direct, Indirect, and Cumulative Global Warming Impacts have not been Assessed**

While the FEIS discloses that coal mined from the West Antelope II LBA will be burned, contributing to greenhouse gas emissions and global warming, the FEIS fails to disclose the actual amount of greenhouse gas emissions that will be attributable to coal burning associated with the West Antelope II LBA. Although the BLM generally discloses that coal from the Powder River Basin contributes to 13.9% of the United States' greenhouse gas emissions, there is no similar estimate presented for the West Antelope II LBA. It is therefore difficult to understand exactly how the West Antelope II LBA will cumulatively contribute to greenhouse gas emissions in the United States.

Furthermore, the cumulative estimates of greenhouse gas emissions from coal mining in the Powder River Basin appear to overlook greenhouse gas emissions from locomotives that haul coal from the region and empty coal cars to the region, from methane releases that result from coal mining activities, and from indirect emissions associated with vehicle traffic associated with mining activities. Although the FEIS analyzes the direct and indirect greenhouse gas emissions projected to result from development of the West Antelope II LBA, there is no similar cumulative assessment.

## **II. Air Quality Impacts have not been Adequately Addressed**

As we discussed in our January 20, 2009 comments, the BLM has a substantive duty pursuant to the Federal Land Policy and Management Act ("FLPMA") to ensure compliance with state and federal air pollution standards, including national ambient air quality standards ("NAAQS"). *See* 43 USC § 1712(c)(8). Unfortunately, the FEIS fails in key regards to demonstrate adequately protection of air quality standards, particularly the NAAQS.

- **Ozone**

As we explained, we are particularly troubled that the FEIS fails to analyze and assess impacts to ozone concentrations in the region. The State of Wyoming is struggling to meet federal NAAQS for ozone in the western part of the State. Most recently, the Wyoming Department of Environmental Quality issued health advisories because of elevated ozone

---

<sup>9</sup> *See* Exhibit S-8 to these comments.

<sup>10</sup> *See* Exhibit S-9 to these comments.

pollution. *See* Exhibit S-10 to these comments, Gearino, J., “DEQ issues ozone alert for Pinedale,” *Casper Star Tribune* (February 3, 2009). The latest health advisories come on the heels of the region experiencing ozone levels as high as 122 parts per billion in 2009. Current federal NAAQS limit ozone to no more than 75 parts per billion (or 0.075 parts per million). Despite clear signs of problematic ozone concentrations in the region, the FEIS is silent on ozone impacts.

Also of concern is that the FEIS ignores the fact that ozone is increasingly a regional problem, and that emissions from mining activities in the Powder River Basin could have a profound impact to downwind communities and state. A recent petition filed by WildEarth Guardians calls attention to the issue. *See* Exhibit S-11, WildEarth Guardians, “Petition to EPA to Call for the Revision of State Implementation Plans for Arizona, California, Colorado, Idaho, Kansas, Montana, Nebraska, New Mexico, Nevada, North Dakota, Oklahoma, Oregon, South Dakota, Utah, Washington, and Wyoming to ensure attainment and maintenance of the 8-hour ozone National Ambient Air Quality Standards; and Petition to EPA to Establish a Western United States Interstate Transport Region and a Western United States Interstate Transport Commission” (December 23, 2008). That petition calls on the U.S. Environmental Protection Agency to force states to revise air quality regulations to address interstate transport of ozone pollution, and to develop regional solutions to the problem in the American West. The petition presents abundant information showing that ozone transport within the American West is a problem, and the BLM must address this fact when analyzing the impacts of the West Antelope II LBA to the ozone NAAQS.

- **Cumulative Air Quality Impacts of Rail Traffic**

The FEIS appears similarly silent on the cumulative air quality impacts of rail traffic associated with past, present, and reasonably foreseeable mining activities. Rail locomotives are of particular concern in light of their diesel particulate emissions, which are linked to cancer and other harmful health effects. *See* Exhibit S-12, California Air Resources Board, “Summary of Adverse Impacts of Diesel Particulate Matter” (December 2008). Although particulate matter is regulated under the Clean Air Act, diesel particulate emissions are not specifically regulated as a harmful air pollutant.

### **III. The West Antelope II LBA Fails to Ensure Conformity as Required Under the Clean Air Act**

Pursuant to Clean Air Act regulations, the BLM is prohibited from undertaking any activity that would lead to direct or indirect emissions of air pollutants in an area designated as nonattainment under the Clean Air Act that does not conform to an applicable state implementation plan (“SIP”). *See* 40 CFR § 93.150(a). Specifically, the BLM must make a conformity determination for any activity that may produce emissions in a nonattainment area that has direct and indirect emissions of the pollutant for which an area has been designated nonattainment that exceed 100 tons/year. *See* 40 CFR § 93.153(b)(1).<sup>11</sup> To demonstrate

---

<sup>11</sup> Direct emissions are defined as those emissions that are caused or initiated by the Federal action and occur at the same time and place as the action. Indirect emissions are defined as those emissions that are caused by the Federal

conformity, the agency must follow the procedures at 40 CFR §§ 93.158 and 93.159. *See* 40 CFR §§ 93.150(b).

In this case, there is no evidence that the BLM has analyzed the direct and indirect air quality impacts of granting the West Antelope II LBA to ensure compliance with Clean Air Act conformity regulations. This is a major oversight. The FEIS discloses that the West Antelope II LBA is likely to lead to emissions of nitrogen oxides (“NOx”), particulate matter, and other harmful air pollutants. If these pollutants are released in areas designated as nonattainment under the Clean Air Act, then the BLM is authorizing an action that will lead to indirect emissions in a nonattainment area, which must be addressed to demonstrate conformity. If the BLM fails to ensure compliance with conformity, the agency risks enforcement action from citizens, states, and the U.S. Environmental Protection Agency.

#### **IV. Endangered Species Impacts**

As we explained in our January 20, 2009 comments, the BLM has a duty to consult with the U.S. Fish and Wildlife Service and NOAA Fisheries pursuant to section 7 of the Endangered Species Act over the direct, indirect, and cumulative climate change impacts of authorizing the West Antelope II LBA. In addition to threatened and endangered species like the polar bear, Atlantic salmon, bowhead whale, and white abalone, the BLM must consult over impacts to coral species listed as threatened, including the elkhorn and staghorn corals. *See* 71 Fed. Reg. 26852-26872. Reports indicate that ocean acidification linked to emissions of greenhouse gases and that global warming are major threat to coral species. *See* Exhibit S-13, Buddemeier, et al., “Coral reefs and global climate change,” report prepared for Pew Center on Global Climate Change (February 2004).

Thank you for the opportunity to comment.

Sincerely,

Jeremy Nichols  
Climate and Energy Program Director  
WildEarth Guardians  
1536 Wynkoop, Suite 301  
Denver, CO 80202  
(303) 573-4898 x 537  
[jnichols@wildearthguardians.org](mailto:jnichols@wildearthguardians.org)

and

Steve Thomas

---

action, but may occur later in time and/or distance, and are reasonably foreseeable, and which the Federal agency can practically control and will maintain control over. *See* 40 CFR § 93.152.

Northern Plains Regional Director  
Northern Plains Office, Sierra Club  
45 E. Loucks Ste 109  
Sheridan, WY 82801  
(307) 672-0425  
[steve.thomas@sierraclub.org](mailto:steve.thomas@sierraclub.org)