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COURTS

NEPA ruling revives grumbling about 'war on coal'

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The nation's largest coal mine, Peabody Energy Corp.'s North Antelope Rochelle mine, is largely on federal land. Peabody Energy Inc./Wikipedia

The Interior Department has declared "the war on coal" kaput as recently as February and routinely since President Trump took office.

But a federal judge last week put in jeopardy what little advancement the Trump administration has been made in leasing more public land for coal mining.

Judge Brian Morris for the U.S. District Court for the District of Montana **ordered** Interior to justify former Secretary Ryan Zinke's decision to lift an Obama-era coal leasing moratorium.

Trump officials will either have to conduct a new National Environmental Policy Act analysis or give Morris a "convincing statement" that impacts have been insignificant, with about 40% of U.S. coal coming from federal land ([Energywire](#), April 22).

The environmental groups that sued Interior want to see the leasing ban restored.

When Zinke ended the moratorium on March 29, 2017, coal companies had applied to lease about 2.8 billion tons of federal coal.

Today, the total is about 1.8 billion federal tons.

Most of the drop was the withdrawal of five pending applications totaling more than 901 million tons.

By contrast, the Bureau of Land Management has received just seven new applications for at least 38.9 million tons and sold 86.6 million tons. Of that sold coal, BLM had **listed** about 24.9 million tons as exempt from the moratorium to begin with.

Little need

Coal companies just don't need any more coal, said Andrew Blumenfeld, market analytics chief for research firm Doyle Trading Consultants LLC.

Most federal coal comes from the Powder River Basin, spanning the border of Montana and Wyoming.

But almost all the region's coal heads to power plants, which have been shutting down at a record clip, in part due to renewables and cheaper natural gas. As such, Powder River Basin production has dropped by more than 20%, according to the U.S. Energy Information Administration.

"It seems like every time you turn around there's more gas coming in and more renewables, so it's very difficult for the coal to compete in these conditions," Blumenfeld said.

Major Powder River Basin mines typically have leased enough coal to keep their mines operating for at least 10 more years. But Blumenfeld estimated that could easily become 20 to 30 years if the slide in coal demand continues.

"While it is not likely to have an immediate effect on current operations, future leasing activity will certainly be impacted if [the decision is] upheld," Wyoming Mining Association Executive Director Travis Deti said.

But there are potential exceptions if Zinke's order is vacated and the moratorium returns, Blumenfeld said. Interior has approved six leases that were subject to the ban or submitted after it was lifted.

Among them were a trio of Utah lease approvals that led Interior to proclaim in February that "the American dream is alive and well" in coal towns nationwide ([Energywire](#), Feb. 15).

Environmentalists already sued to stop Alton Coal Development LLC's expansion at the Coal Hollow mine about 10 miles outside Bryce Canyon National Park ([Greenwire](#), April 17).

In addition to two lease modifications at Wolverine Fuels LLC's Sufco mine, the other lease approvals potentially at risk include an additional 3.37 million tons at the Pollyanna No. 8 mine in eastern Oklahoma; 8.7 million tons at the Black Butte mine in Wyoming; and 4.7 million tons at the King II mine in Colorado.

Earthjustice attorney Jenny Harbine said she and the other attorneys representing environmental groups in the federal lawsuit are still wrapping their minds around the best approach to going after leases that have been approved since Interior lifted the moratorium.

"At a minimum, we'll request that the Zinke secretarial order be vacated, which would reinstate the moratorium," she said.

But the National Mining Association, which intervened in the litigation on behalf of the coal industry, blasted the judge's decision, saying it was "irreconcilable" with the U.S. Court of Appeals for the District of Columbia Circuit's decision last year to toss a similar coal leasing lawsuit.

The trade group contends the real violation of NEPA was the Obama administration's moratorium.

"The court's decision casts considerable uncertainty over federal agencies' policymaking and promises to inflict greater paralysis into agency policy reviews," said NMA President Hal Quinn in a statement.

Under Trump, Interior has taken steps to fast-track coal lease reviews ([Greenwire](#), Nov. 1, 2018). Under a [secretarial order](#), NEPA analyses must be completed within one year and in 150 pages or less.

Environmentalists contend reviews continue to ignore climate change and shortchange taxpayers in terms of royalties.

"Coal barons have never had to fully pay for the damage their mines inflict on our climate and our public lands, or the hefty price their mining has had on public health," Sierra Club senior attorney Nathaniel Shoaff said in a statement.

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