

Executive Summary

Undermined Promise II

*New Report Details Reclamation Shortfalls Across Western Mines
Taxpayers Face Massive Liability if Shaky Companies Fold*



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National Wildlife Federation, Natural Resources Defense Council, and Western Organization of Resource Councils release *Undermined Promise II*, a report on the threat of coal reclamation failure in the West and its pending public liability. The report finds that coal companies have fallen far behind in reclaiming mines, and, with the coal industry on shaky financial ground, the public faces increasing liability for massive reclamation costs of more than \$2 billion and damage to landscapes, wildlife and crucial water supplies. The American public will be left to deal with the fallout as companies scramble to offset the decreasing demand at home for coal by exporting their product to foreign markets.

For over 40 years, large scale surface coal mining has had an outsized impact on public lands in the American West. In recognition of mining's inherent environmental and public impacts, the 1977 federal Surface Mining Control and Reclamation Act (SMCRA) was enacted to ensure that coal mining operations be designed and operated to protect land, water, wildlife and local communities. Just as important, however, was SMCRA's promise to ensure that these mines would be reclaimed in a complete and timely fashion, including restoration of disturbed land, water and habitat features to their pre-mining integrity and productivity. As a safety net and incentive to ensure full and timely reclamation, SMCRA requires coal



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companies to post significant reclamation bonds as collateral for the risks that coal-mining entails. Bonds are released back to companies in phases only after reclamation standards are demonstrated.

Since SMCRA's passage in 1977, coal production has boomed across the nation, particularly in the Powder River Basin in Wyoming. But that picture is now dramatically changing as America begins to move away from coal to cheaper and cleaner fuels and more efficient uses of energy. With monthly coal production trending downward since its peak in August 2008, there has been a string of bankruptcies, mine closures, and employee layoffs. Some of the nation's largest coal companies are showing immense financial stress.

In the face of declining domestic demand, mining companies are aggressively advocating to export

U.S. coal to overseas markets, especially to Asia. It is clear, however, that coal mining wreaks havoc on the landscape, its native soil and vegetation, the fragile hydrology of arid Western ecosystems, and the wildlife and agricultural production that depend on these things to survive. It is also clear that even with the passage of SMCRA, coal companies are still not being held accountable for failing to protect and restore these lands to their original state as required by federal law.

Almost eight years ago, with the release of *Undermined Promise*, we found that SMCRA's intent was not being fulfilled. Unfortunately, little has changed since then. Today, with the release of our second report, *Undermined Promise II*, we find that mining companies and regulatory agencies are continuing to fail the American people.

Key Findings Include

- After decades of mining across 450 square miles of disturbed mined land in Montana, North Dakota, and Wyoming, only 46 square miles has met the reclamation requirements for final phase III and IV bond release. This calls into question the industry's prospects of successfully reclaiming the harsh, brittle and semi-arid ecosystems of Western states.
- The gap between acres of land disturbed by mining and acres released from reclamation bond continues to grow, and with it grows the outstanding bond liabilities of coal companies. The largest mines have bonds in excess of \$300,000,000 apiece.
- Some states allow larger coal companies to "self-bond" their mining reclamation obligations rather than collateralize them with financial assurance



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instruments. The alarmingly weak financial state of nearly all large coal companies mining in the West, including industry giants Alpha Natural Resources, Arch Coal and Peabody Energy, raises serious questions about the companies' capacity to fulfill reclamation requirements, as well as the likelihood that some or all of the nearly \$2 billion burden of mine reclamation will be left to U.S. taxpayers.

- Water is perhaps the most precious natural resource in the West and protection of the hydrologic balance is a principle goal of SMCRA, yet *Undermined Promise II* finds that mine permits too often fail to adequately capture essential data to fully assess the baseline hydrologic balance. Water resources cannot be protected during mining or afterward without this data.
- Protecting and restoring wildlife habitat to its pre-mining integrity is also a principle goal, yet SMCRA's performance standards are not resulting in quality habitats. Lands claimed to be reclaimed

by coal operators appear aesthetically pleasing, yet plant communities essential for wildlife are significantly non-diverse and non-native.

- Reclamation in the fragile sage steppe environment of the West that is home to the threatened sage grouse and hundreds of other wildlife species may take decades of natural development to reestablish the characteristics of native shrub communities comparable to pre-mining conditions.
- Compliance with SMCRA's mining and reclamation standards require mandated state and federal inspections, yet between 2006 and 2013 as the number of western acres disturbed by mining expanded by 15%, the number of regulatory inspection staff decreased by nearly 14%.

The Surface Mining Control and Reclamation Act was enacted to ensure that sound mining and full reclamation be done in a timely and complete fashion. Yet, after decades of mining in the West, it is becoming increasingly clear that some coal companies may soon not have the resources to fulfill their reclamation requirements. *Undermined Promise II* details how few mines have achieved substantial bond release and may be incapable of meeting final reclamation standards. The era of coal is passing in America. However, without significantly enhanced reform and enforcement, the burden of its legacy will be left to the public.

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