



# Coal Environment in Washington DC

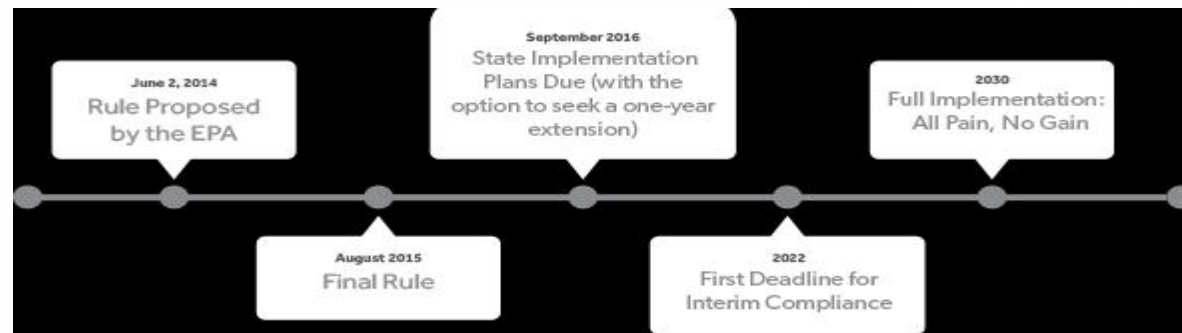
Presented to Western States Land  
Commissioners Association, Royalty Working  
Group

January 27, 2016

# Clean Power Plan

- **Who** – Environmental Protection Agency
- **What** – Regulates carbon dioxide emissions from existing power plants
- **Where** – Nationwide, except Alaska, Hawaii, and Vermont

- **When** –



- **Why** – To reduce carbon dioxide emissions from the electric power sector
- **How** – Section 111(d) of the Clean Air Act

# What's at Stake for North Dakota?

- Besides some of the lowest-cost electricity in the country, North Dakota's coal-fired power plants provide 16,000 jobs, \$3 billion in annual economic activity, and \$100 million in tax revenues each year.
- Severance and Conversion tax revenue sharing is a significant source of revenue for counties in coal country.

<b>Total Severance Tax Paid to Counties in 2014</b>	<b>\$7,465,438</b>
Counties General Fund	\$2,986,175
Schools	\$2,239,631
Cities	\$2,239,631
<b>Total Conversion Tax Paid to Counties in 2014</b>	<b>\$5,715,346</b>
Counties General Fund	\$2,286,138
Schools	\$1,714,604
Cities	\$1,714,604

- 70% of severance tax is returned to the counties in which the coal was produced.
- 15% of conversion tax is returned to the counties in which the coal was converted.
- **Federal Coal Royalties:** Royalties paid for federal coal are shared equally with the state. Under NDCC 15.1-27-25, 50% of the total royalties received are proportionately distributed to the counties from which the coal was produced.

<b>Total Federal Coal Royalties Paid in 2013</b>	<b>\$2,032,000</b>
Total Royalties Shared with State in 2013	\$1,016,000
County Share	\$508,000

- **Abandoned Mine Reclamation Fund:** Under the Surface Mining Control and Reclamation Act of 1977, lignite mines pay a federal reclamation fee of 9 cents per ton of coal produced. Half of these funds are returned to the state, with the remainder distributed through various formulas. In 2015, the North Dakota Public Service Commission received \$2,781,000 in Abandoned Mine Land funding.



# New Source Performance Standard

- Regulation for carbon dioxide emissions from new power plants
- Sets standard of 1,400 lbs CO<sub>2</sub>/MWh
- New supercritical coal plant emits approximately 1,800 lbs CO<sub>2</sub>/MWh
- Effectively a de facto ban on the construction of new coal-fired power plants

# Stream Protection Rule

- **Proposed by Office of Surface Mining Reclamation and Enforcement**
- **1,200 pages of new requirements and changes to existing rule regarding mining impacts to ephemeral and perennial streams**
- **Written to address impacts of surface mining in Appalachia, represents a “one-size-fits-all” approach to rulemaking**
- **Estimated \$50 million in annual compliance costs and sterilization of 600 million tons of coal**

# Moratorium on Federal Coal Leasing

- **January 15<sup>th</sup>, 2016 – Secretary Jewell announced that the Department of Interior would be conducting a comprehensive review of the federal coal leasing program**
- **A “temporary pause” was imposed on all new federal coal leases until review is complete**
- **Approximately 15-20% of coal mined in North Dakota on annual basis is federal**
- **Has the potential to impact existing mine plans and certainly future mine plans**

# Who's in Charge?



# Key Legislation for Lignite Coal Industry

- **Ratepayer Protection Act**
  - Introduced by Rep. Ed Whitfield (R-KY)
  - Stays implementation of 111(d) rule for existing plants until conclusion of judicial review
  - Allows states to opt-out of rule if they certify that it will have negative impacts
- **Affordable Reliable Energy Now Act (ARENA)**
  - Provides a legislative stay of any CO2 regulations pending judicial review
  - Requires EPA to develop new regulations that are based on commercially-demonstrated technology
- **Supporting Transparent Regulatory and Environmental Actions in Mining (STREAM) Act**
  - Requires OSM to make all information publicly available, and prohibits OSM from issuing any new stream buffer regulations until completion of a National Academy of Sciences review of the effectiveness of current stream protection regulations
- **Disapproval Resolutions**
  - Congressional Review Act authorizes Congress to “legislatively veto” regulations within 60 days of being made final
- **Appropriations Riders**
  - Legislation to appropriate funding can include language prohibiting an agency from spending funds to develop or implement regulations or other actions





# Sue, baby, sue

- **27 States, including North Dakota, have filed suit against both Clean Power Plan and New Source Performance Standard**
- **In addition, dozens of industry, labor union, and business groups have filed challenges.**
  - Energy & Environmental Legal Institute v. EPA, No. 15-1398
  - Association of American Railroads v. EPA, No. 15-1383
  - United Mine Workers of America v. EPA, No. 15-1375
  - Utility Air Regulatory Group (UARG) v. EPA, No. 15-1370
  - American Coalition for Clean Coal Electricity (ACCCE) v. EPA, No. 15-1368
  - National Mining Association (NMA) v. EPA, No. 15-1367
  - Murray Corp. v. EPA, No. 15-1366
  - International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers, AFL-CIO v. EPA, No. 15-1365
- **Stay motion denied on January 21, however, court set expedited briefing schedule**



# The Ultimate Solution...

- **Carbon Capture, Utilization, and Sequestration!**
- **State partnership with Lignite Research Council and EERC looking to develop next generation power plant technology**
- **Also working with DOE**
- **Time and money**

