



OFFICE OF
INSPECTOR GENERAL
U.S. DEPARTMENT OF THE INTERIOR

INVESTIGATIVE REPORT OF COAL SELF-BONDING IN WYOMING

This is a revised version of the report prepared for public release

SYNOPSIS

The Office of Inspector General opened this investigation to determine if Peabody Energy Corporation (Peabody) submitted false information related to their self-bonding weeks prior to filing for bankruptcy. Peabody submitted certifications concerning their financial health to the State of Wyoming agency that managed a self-bonding program, through a grant administered by the Office of Surface Mining Reclamation and Enforcement (OSMRE). Self-bonds are legally binding corporate promises to reclaim the lands the corporations mine in lieu of other financial guarantees. We also sought to determine if the State properly fulfilled its responsibilities under the grant.

We did not substantiate that Peabody submitted false financial certifications. Peabody was not the guarantor of the self-bonds, rather the bonds were held by a wholly owned subsidiary, Peabody Investments Corporation (PIC). We found that Peabody submitted accurate, yearly, audited PIC financial statements as required under Wyoming law and in accordance with Federal regulations. We also found Wyoming fulfilled its responsibilities under a grant with the OSMRE with respect to vetting and approving Peabody's self-bonding application.

We are providing this report to the Director of the OSMRE for any action deemed appropriate.

DETAILS OF INVESTIGATION

The Office of Inspector General opened this investigation based on information developed from an evaluation of a series of coal-producing companies contemporaneously declaring bankruptcy. Our focus was on how the bankruptcies impacted the self-bonding program. After we opened our investigation, we also discovered that prior to Peabody Energy Corporation's (Peabody) bankruptcy filing, two citizen complaints were lodged with Office of Surface Mining Reclamation and Enforcement (OSMRE) alleging Peabody was not eligible to self-bond. We sought to determine if Peabody submitted false information weeks prior to filing for bankruptcy.

Peabody submitted certifications concerning their financial health to the State of Wyoming agency that managed a self-bonding program, which acted in association with grants administered by the OSMRE. Self-bonds are legally binding corporate promises to reclaim the lands the corporations mine in lieu of other financial guarantees, so long as they maintain specific financial conditions, such as minimum net worth and tangible assets. We also sought to determine if the State properly fulfilled its responsibilities under the grant.

Peabody Did Not Submit False or Misleading Information

Our investigation found no false statements in the 2015 audited financial statements submitted by Peabody or Peabody Investments Corporation (PIC) in support of Peabody's self-bonding application, and that Peabody disclosed a notice of going concern when it submitted its 2015 audited financial statements to Wyoming. In addition, we confirmed that Peabody was eligible to self-bond when it submitted its application.

Peabody is a publicly traded company with coal mining operations on Federal leases in Wyoming and elsewhere. Peabody is a publicly traded parent organization, while PIC is a wholly owned private subsidiary that owns the assets associated with Peabody's coal production operations and was the guarantor of the self-bonds. Peabody submitted self-bonding applications to Wyoming based on the PIC's audited financial statements. Peabody began to submit self-bonding renewal applications on March 31, 2016, 13 days prior to filing for bankruptcy.

Peabody asserted it was qualified to self-bond at the time of the submission of the audited financial statements and self-bonding application to Wyoming Department of Environmental Quality (WDEQ) and asserted PIC was eligible to self-bond throughout the bankruptcy process. Representatives from WDEQ, as well as other States with primacy, confirmed that Peabody was eligible to self-bond when its self-bonding renewal applications were submitted.

Wyoming Fulfilled its Responsibilities

The WDEQ was charged with reviewing Peabody's applications and permits related to Federal leases under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Under SMCRA 509(c), there are three avenues for coal mining companies to provide financial guarantees that mining operations would be reclaimed; self-bonding is one of the available options. SMCRA also allows States to apply for primacy, which gives States control of Federal surface mining programs. Once granted, States are required to implement regulations that meet or exceed the standards in 30 C.F.R. §800, *Bond and Insurance Requirements for Surface Coal Mining and Reclamation Operations Under Regulatory Programs*.

Wyoming is one such State with primacy, and its Federal mining operations are overseen by the WDEQ. The WDEQ approved about \$700 million in self-bonds for Peabody's Wyoming operations in March 2015.

We found that WDEQ followed its established protocols in carrying out the responsibilities of the grant. A WDEQ employee explained that Wyoming's laws required the evaluation of end of year financial statements for self-bonding, and they could not consider interim financial reports or reports from third party sources. The employee cautioned about considering unaudited financial statements, as the financial health of a company could be inflated. The employee stated that WDEQ sought guidance from the OSMRE on its level of authority to use quarterly financial statements in decision making. The Regional Director for the OSMRE stated that the OSMRE gives States wide deference related to decisions associated with the acceptability of audited and unaudited financial statements. Notably, in 2015, the WDEQ included a special provision requiring Peabody to notify WDEQ if it used a line of credit that was secured by PIC assets. This line of credit would have encumbered assets used in WDEQ's self-bonding calculations, potentially changing Peabody's self-bonding eligibility.

Finally, during Peabody's bankruptcy proceedings, Wyoming, New Mexico, Illinois, and other States negotiated for Peabody's self-bonds to be replaced with surety bonds after Peabody emerged from bankruptcy.

SUBJECT

Peabody Energy Corporation
Peabody Plaza
701 Market Street
St. Louis, MO 63103

DISPOSITION

We provided this report to the Director of the OSMRE for any action deemed appropriate.

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