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State of North Dakota*

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

WESTERN ORGANIZATION OF)
RESOURCE COUNCILS and)
FRIENDS OF THE EARTH,)

Plaintiffs,)

v.)

SALLY JEWELL, in her capacity as)
Secretary of the Interior,)
DEPARTMENT OF THE INTERIOR,)
NEIL KORNZE, in his capacity as)
Director, Bureau of Land Management,)
BUREAU OF LAND MANAGEMENT,)

Defendants.)

Case No. 1:14-cv-01993-RBW

DECLARATION OF LYNN D. HELMS

I, Lynn D. Helms, state and declare as follows:

1. My name is Lynn D. Helms. I am over 21 years of age and am fully competent and duly authorized to make this Declaration. The facts contained in this Declaration are based on my personal knowledge and are true and correct.

2. I am employed as the Director of the North Dakota Industrial Commission Department of Mineral Resources (the "Department of Mineral Resources"). I have been employed by the Department since July 20, 1998, and have continuously served as the Director of the Department of Mineral Resources since July 1, 2005.

3. The Department of Mineral Resources is a State agency that regulates the extraction and production of North Dakota's mineral deposits, including coal, oil, and gas. The Industrial Commission has jurisdiction over the investigation and publication of geological information, and the regulation of coal exploration, geophysical exploration, geothermal energy, paleontology resources, subsurface minerals, and the production of oil and gas in North Dakota through the Department of Mineral Resources Geological Survey and Oil and Gas Division. The Industrial Commission appoints the Director of the Department of Mineral Resources who serves as Director of the Oil and Gas Division and appoints the State Geologist and Assistant Director of the Oil and Gas Division.

The Geological Survey of North Dakota serves as the primary source of geological information in the state, conducts research relative to the state's mineral resources, and conducts programs to promote better public understanding of the state's natural resources, along with a variety of regulatory duties.

4. In my current position, I am responsible for managing and directing all responsibilities of the Oil and Gas Division and Geological Survey Division of the North Dakota Department of Mineral Resources.

5. In my current position, I am familiar with the above-captioned litigation brought by Western Organization of Resource Councils and Friends of the Earth (collectively, "Plaintiffs"), where Plaintiffs seek to require the Department of Interior and Bureau of Land Management to enjoin federal coal leasing actions until they supplement a 1979 programmatic environmental impact statement to assess the effect that greenhouse gas emissions from the federal coal management program have on global climate change.

6. Disposing of the litigation in Plaintiffs' favor would impair or impede North Dakota's ability to protect its financial interests in federal coal leasing.

7. The Department of Mineral Resources collects and maintains data showing the volumes of all minerals extracted within North Dakota, including coal. In my current position as Director of the Department of Mineral Resources, I have access to this data.

8. Each coal tract within North Dakota is owned by either the federal government, the State of North Dakota, or private parties.

9. In each of the last five fiscal years, approximately 4.1 million tons of federal coal were severed within North Dakota. This equates to approximately 15% of all coal severed within the state.

10. The State imposes a severance tax on all coal severed for sale or industrial purposes, except coal used for heating buildings in the state, coal used by the state or any political subdivision of the state, and coal used in agricultural processing and sugar beet refining plants in the state or adjacent state. The severance tax applies at a rate of 37.5 cents per ton of coal extracted. N.D. Century Code Chapter 57-61.

11. The severance tax applies at a rate of 37.5 cents per ton of coal extracted. In fiscal year 2013, approximately 4.1 million tons of federal coal were extracted. When these amounts are multiplied together, the calculation shows that in fiscal year 2013, the State generated approximately \$1.54 million in severance tax from federal coal.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on February 19, 2015.



Lynn D. Helms

The foregoing Affidavit of Lynn D. Helms was subscribed and sworn before me by Lynn D. Helms on February 19, 2015.

Witness my hand and official seal.





Notary Public

My commission expires: