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History Says Keep an Eye on Federal Coal Payments

A Montana Public Radio Commentary by Evan Barrett

March 15, 2016

The Department of Interior recently announced a comprehensive review of federal coal leasing and a pause in most new leases. This has been done twice before during the Nixon and Reagan Administrations. Then, like now, those reviews and moratoria arose from concerns the public was being denied a fair return on the coal it owns. Seems like every time the system is fixed, it turns up broken again, leaving taxpayers on the short end of full and fair payment from the coal companies profiting from the people's resources. How could that keep happening?

History is a good teacher. Over much of Montana's history, hard-rock mining companies removed the mineral wealth of the state, but paid little or no taxes to the state and its people – similar to the federal coal issue.

Historian K. Ross Toole documented how, back in 1888, Northern Pacific Railroad, the Montana Improvement Company (big timber cutters), and mining barons Marcus Daly and W.A. Clark, avoided federal indictment for illegally stripping huge areas of federal timberlands in western Montana to feed their lumber needs, while underpaying the federal government for all the timber. The way the incident played out in Montana helped set off the War of the Copper Kings between Clark and Daly. But in Washington D.C., the result was a political quashing of the potential federal prosecution - a notorious early example of getting away with plundering natural resources of the federal government here in Montana without paying fairly for them.

A year later, when Montana became a state, mining interests led by the same W.A. Clark, who was Convention President, controlled the Constitutional Convention. Not surprisingly, Montana's 1889 Constitution was tilted to the advantage of mining and other extractive industries. Little or no taxes were the rule of the day. Mining companies were protected in the Constitution by limiting taxes on them to "net" proceeds, which allowed manipulation of the tax to pay little or nothing.

After thirty years under the net proceeds law the truth finally and publically came out -- but at a high price for the truth-teller. A 1919 newspaper headline tells the tale: *Copper Trust Expels College Teacher: Dr. Louis Levine Removed from Position in Montana University for Book Which Exposed Unequal Taxation of Mines and Farm Property*. Levine had exposed the manipulations of the giant Anaconda Company (ACM) in paying little in taxes on huge amounts of copper and other minerals. This expose cost Levine his job and, although it was later restored, he quickly left to another state where his academic freedom was protected.

In 1920 Joseph Dixon was elected Governor of Montana against Burton K. Wheeler in a “lesser-of-two-evils” choice for ACM. But, once in office, Dixon proposed a “metal mines tax” to secure something out of the minerals leaving the state. According to historians Michael Malone & Richard Roeder, “Dixon boldly pointed out the glaring fact that under Montana’s net proceeds laws, Montana metal mines produced over twenty million dollars in 1922 but paid only \$13,559 in state taxes” -- an effective tax rate of seven one-hundredth of one percent of the value of the mining --- virtually nothing. ACM beat Dixon’s bill in the Legislature and then defeated Dixon in his re-election bid.

With the Copper Collar of Constitutional “net proceeds” taxation tightly in place, Montana remained short-changed until Montana’s 1972 Constitution removed the restriction. Then in 1977 the legislature passed a “gross proceeds” tax, making it more difficult for ACM and others to cheat on hard rock mining taxes.

But over the years, in Montana and other western states, coal companies made lease and royalty payments to the federal government that were far below-market-value. Estimates are that American taxpayers have been shortchanged tens of billions of dollars in these sales. Since a portion of every dollar of under-payment would have gone to the states, Montana lost millions upon millions.

So, with an eye towards history, keep a watch on this Department of Interior process. Actively participate so that we don’t again end up with a system that cheats the public. And don’t accept a new “fox guarding the henhouse” approach or the fox will surely end up fat and the henhouse will be empty.

This is Evan Barrett in Butte thinking about being able in the future to avoid historic federal coal mining royalty rip-offs.

Evan Barrett of Butte, has spent the last 46 years at the top level of Montana economic development, government, politics and education. He is currently the Director of Business & Community Outreach and an instructor at Highlands College of Montana Tech. These are his personal views.

(700 words in the body)