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The Honorable Mary Jo White
Chair
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

RE: Bowie Resource Partner, LP's Initial Public Offering

Dear Chairwoman White:

Sierra Club provides this comment letter in response to the June 19, 2015 Form S-1 filing made by Bowie Resource Partners, LP ("Bowie"), a recently formed master limited partnership focused on coal mining in Utah. Sierra Club writes because we believe Bowie's S-1 lacks certain material disclosures and may give potential investors false impressions related to the risks facing Bowie's business.[1] To that end, Sierra Club provides these comments to the Securities and Exchange Commission ("SEC") as it reviews and responds to the disclosures in Bowie's S-1.

Specifically and as shown in more detail below, Bowie did not disclose the following issues:

(1) Bowie's 15-year contract with PacifiCorp may be at risk because PacifiCorp, a regulated utility with service territory in six western states, failed to obtain mandatory approval from California of its contract with Bowie;

[1] To be clear, Sierra Club does not at this time allege that Bowie violated any securities laws or regulations. The purpose of this letter is to raise awareness of various risks related to the coal industry in general, and Bowie in particular, so that investors will be better informed about potential investment decisions.

The information in this letter is not financial advice, investment advice, trading advice or any other advice. Sierra Club is not an investment advisor, and does not make any representation regarding the advisability of investing in any particular company or investment fund or vehicle. A decision to invest in such an investment fund or entity should not be made in reliance on any of the statements set forth in letter. While Sierra Club has obtained information believed to be reliable, it shall not be liable for any claims or losses of any nature in connection with information obtained in this document, including but not limited to, lost profits, punitive or consequential damages. The opinions expressed in this letter are based on the documents specified.

(2) Bowie failed to identify information indicating that its contract with Intermountain Power Agency ("IPA") may be unlikely to be renewed after 2024;

(3) Bowie likely overstated the potential growth of seaborne coal markets and may have relied on outdated data on the demand for thermal coal imports in China; and,

(4) Bowie failed to identify several risks related to its export capacity from California ports. These issues may have a substantial impact on Bowie's performance in the coming years and should be disclosed to potential investors.

I. BACKGROUND

Sierra Club is a national, non-profit environmental and conservation organization incorporated under the laws of the State of California. The Sierra Club is dedicated to the protection of public health and the environment. Sierra Club's Beyond Coal campaign advances the development of energy conservation and renewable energy policies, which eliminate or reduce global climate change emissions, reduce utility bills, and generate renewable energy. The Beyond Coal Campaign works to drastically reduce carbon dioxide emissions from coal-fired power plants, one of the largest sources of global warming pollution in the U.S. Sierra Club's work includes advocating for the implementation of robust incentive programs that assist its members and utility consumers generally to generate their own renewable energy and increase energy efficiency. The Sierra Club's work also includes participating in administrative proceedings, rulemakings, and other processes nationwide in support of policies to reduce the impact of climate change and other air pollution by promoting clean energy alternatives and energy efficiency.

Bowie mines western bituminous coal. Bowie operates three underground coal mines in Utah with a reported productive capacity of approximately 12.6 million tons per year: (i) the Sufco mine, near Salina, Utah, which is a longwall operation with a productive capacity of approximately 7.0 million tons per year, (ii) the Skyline mine, near Scofield, Utah, which is a longwall operation with a productive capacity of approximately 4.5 million tons per year, and (iii) the Dugout Canyon mine, near Price, Utah, which is a multi-continuous miner operation with a productive capacity of approximately 1.1 million tons per year.[2]

Bowie filed the S-1 to support a proposed initial public offering of $100 million. In the S-1, Bowie stated that the majority of its coal sales in 2014 were through multi-year coal supply agreements with two domestic buyers. The first is a 2.5 to 4.5 million tons per year agreement with PacifiCorp that expires in 2020, the second is a 2.5 to 3.0 (3.2 in 2015) million tons per year agreement with Intermountain Power Authority that expires in 2024, and the third is a 2 to 3 million tons per year agreement with PacifiCorp that expires in 2029.[3] Finally, Bowie asserted that it has an aggregate throughput capacity of approximately 5.7 million tons per year to export coal from California ports.[4] Bowie expects the pacific market for seaborne thermal coal to increase due to increased coal import demand from China and India.[5]

Sierra Club believes that several of the value propositions asserted by Bowie are overly optimistic and fail to disclose significant risk factors. Further, additional

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[2] Bowie Resource Partners, LP, Form S-1 (June 19, 2015) (hereafter the "S-1") at 2.
[3] S-1 at 2, 151-152.
[4] S-1 at 3, 142.
[5] S-1 at 7, 157-58.

information has come to light that impact Bowie's risk factors since it initially filed the S-1 on June 19, 2015.

II. PacifiCorp Contract at Risk

Bowie's S-1 identified a recently completed multi-year contract with PacifiCorp to provide coal to the Huntington coal plant through 2029.[6] The multi-year coal supply agreement with PacifiCorp for Huntington is one of the key customer agreements identified by Bowie in the S-1. In addition, Bowie expects the Fossil Rock reserves, which were acquired through the Utah Transaction, to replace a substantial amount of production from the Sufco mine in 2021.[7] However, the entire Utah Transaction may be at risk because PacifiCorp failed to obtain required regulatory approvals before completing the transaction.

On June 5, 2015, Bowie closed on a contract with PacifiCorp, referred to in the S-1 as the "Utah Transaction."[8] As part of the Utah Transaction, Bowie entered into an agreement with PacifiCorp to supply all of the coal requirements of PacifiCorp's Huntington Power Plant in Utah through 2029 and to acquire the undeveloped Fossil Rock coal reserves in Utah. Bowie estimated that the Fossil Rock reserves increase its proven and probable reserves by an estimated 11.2 million tons and 32.5 million tons, respectively, and it plans to begin development of the Fossil Rock reserves in 2017.

As part of the Utah Transaction, Bowie also acquired certain real property near PacifiCorp's Hunter Power Plant. PacifiCorp is a regulated public utility with service territory in California and other western states. Under California law, the California Public Utilities Commission ("CPUC") must approve PacifiCorp's plan to sell or transfer its property before any such transaction is deemed final.[9] The law further provides that "[e]very sale…made other than in accordance with the advice letter and approval from the commission authorizing it is void." (Cal. Pub. Util. Code 851.)

PacifiCorp filed an Advice Letter with the CPUC on December 14, 2015 requesting such approval.[10] However, PacifiCorp closed the transaction on June 5, 2015 <u>without</u> obtaining approval from the CPUC. To date, the CPUC has not approved the transaction. Sierra Club filed an administrative complaint with the CPUC on June 22, 2015 alleging PacifiCorp failed to comply with California law and requesting the CPUC to issue an order declaring that the transaction between PacifiCorp and Bowie is void.[11] That proceeding is ongoing.

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[6] S-1 at 6, 127.
[7] S-1 at 132.
[8] S-1 at 127.
[9] California Public Utilities Code Section 851.
[10] PacifiCorp Advice Letter 513-E, *Request for Authorization to Sell Certain Mining Assets under California Public Utilities Code Section 851 and General Order 173 and to Establish a Cost Memorandum Account for Costs Associated with Deer Creek Mine Closure* (Dec. 14, 2015), available at: https://www.pacificpower.net/content/dam/pacific_power/doc/About_Us/Rates_Regulation/California/Regulatory_Filings/Advice_513_E/12-15-14_Advice_Filing_and_Direct_Testimony/filing/CA_Advice_513_E_Deer_Creek.pdf
[11] *Sierra Club vs. PacifiCorp, dba Pacific Power (U901E)*, CPUC Docket No. C.15-06-017 (June 22, 2015).

Bowie was aware, or should have been aware, of the problem in California at the time it filed the S-1.[12] Exhibit 2-2 to the S-1 includes an omnibus amendment agreement that modified the original Utah Transaction agreements. That omnibus amendment agreement included a provision that expressly identified the CPUC approval requirement: "[PacifiCorp] and [Fossil Rock Fuels] hereby waive, as to the respective agreements to which they are signatories, the conditions precedent as set forth under Section 7.1(a) of the Asset Purchase Agreements, and Section 10.01(e) of the Huntington CSA, the conditions precedent [sic] as they pertain only to any <u>regulatory approvals required from the California Public Utilities Commission</u>."[13] PacifiCorp's waiver of this condition should have alerted Bowie, if it was not already aware, that PacifiCorp had <u>not</u> obtained the necessary regulatory approval from the CPUC. A quick review of California law would have then revealed that the consequence of PacifiCorp's failure risked a determination from California that the Utah Transaction was void.

Bowie did not disclose in the S-1 that PacifiCorp had not obtained California approval of the Utah Transaction or that its contract with PacifiCorp was at risk of becoming void. Investors should be made aware of this risk before deciding to invest in Bowie. If the 15-year coal supply agreement with PacifiCorp falls apart, Bowie's multi-year supply agreements would only include the PacifiCorp Hunter coal supply agreement that expires in 2020 and the IPA agreements that expire in 2024.

III. IPA CONTRACT UNLIKELY TO BE EXTENDED

In the S-1 Bowie stated, "[w]e believe our contract with PacifiCorp and IPA that are set to expire in 2020 and 2024 have the potential to be extended in future, should we choose to do so."[14] Sierra Club does not dispute that either of those contracts have the "potential" to be extended. However, Bowie should have disclosed the high likelihood that the Intermountain Power Project ("IPP") coal plant will switch to natural gas in or around 2025.

Several local media sources have reported that a switch from coal to natural gas at IPP is imminent.[15] The Salt Lake City Tribune described the situation with IPP as it relates to expansion plans of another coal supplier as follows:

> Coal from the [Alton] mine is sold to the Intermountain Power Plant near Delta. But that generator is set to soon convert to natural gas in order to keep its green-minded power customers in California happy.[16]

Those reports are consistent with recent actions taken by some of IPP's California customers. For example, on June 30, 2015 the City Council in Burbank, California voted

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[12] Sierra Club acknowledges that Bowie could not have reasonably known about Sierra Club's complaint to the CPUC at the time it filed the S-1 because Sierra Club filed the complaint shortly after Bowie filed the S-1.
[13] S-1, Ex. 2-2 at 3 (emphasis added).
[14] S-1 at 126.
[15] *Editorial: Not Enough Confidence to Allow Alton Mine to Expand*, Salt Lake City Tribune, July 13, 2015, available at: http://www.sltrib.com/opinion/2726634-155/editorial-not-enough-confidence-to-allow; *Looking At Future Generation: As IPP Seeks to Convert From Coal to Natural Gas Electricity Generation Over Next 12 Years, Sevier Valley May Feel Impacts Of The Changes* , Richfield Reaper, March 6, 2014, available at: http://www.richfieldreaper.com/news/local/article_7e62b7c0-a4cc-11e3-9458-0019bb2963f4.html.
[16] *Editorial: Not Enough Confidence to Allow Alton Mine to Expand*, Salt Lake City Tribune, July 13, 2015, available at: http://www.sltrib.com/opinion/2726634-155/editorial-not-enough-confidence-to-allow.

to approve a resolution related to Burbank's continued participation as an IPP customer.[17] The staff report on the resolution described the natural gas repowering plan put forth by IPA and the Los Angeles Department of Water and Power ("LADWP"):

> IPA and LADWP have proposed that 1) this natural gas power plant begin commercial operation in 2025 and run to 2077 and 2) the coal plant be retired simultaneously, two (2) years earlier than the current (coal-based) contracts expire.[18]

LADWP, another California customer of IPP, similarly described its plan to eliminate coal-generated electricity from IPP by 2025: "In collaboration with participating power utilities, LADWP will convert IPP to a smaller natural gas generating station by 2025 at the latest, with efforts to begin that transition by 2020."[19]

Bowie's assertion in the S-1 that the IPA contract set to expire in 2024 may be extended is not necessarily false. However, Bowie did not disclose available evidence that strongly suggests that it is much more likely that IPP will convert to gas when the 2024 coal supply agreements with Bowie expire. Investors should be aware of the possibility – if not the likelihood – that Bowie will lose a major customer after 2024.

IV. SEABORNE COAL MARKET WEAKNESSES

Bowie stated in the S-1 that most of its coal sales revenues (an estimated 71% in 2015) come from its domestic customers PacifiCorp and IPA.[20] In addition to those domestic sales, Bowie touted the international thermal coal market as a substantial part of its business.[21] However, Sierra Club believes that Bowie significantly overstated the expected demand growth for seaborne thermal coal. If anything, the Pacific markets for thermal coal are likely to shrink, not grow.

Bowie asserted that coal import demand growth in China will be a significant driver of growth in seaborne coal markets:

> China, which has traditionally been a net exporter of thermal coal, underwent a 175.8 million metric ton increase in imports from 2008 to 2014, a compound annual growth rate of 33%. Imports are expected to grow an additional 108% to 419.1 million metric tons by 2035, according to Wood Mackenzie.[22]

This information is likely overly optimistic. Another coal company, CNX Coal, recently described a very different picture of the Pacific seaborne coal market in a June 30, 2015 amended S-1 filing:

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[17] City of Burbank City Council Minutes Regular Meeting, Tuesday, June 30, 2015, available at: http://burbank.granicus.com/DocumentViewer.php?file=burbank_ede255e23d8167cbbe849c15ac3f155e.pdf&view=1

[18] City of Burbank, Burbank Water and Power Staff Report, June 30, 2015, at 2, available at: http://burbank.granicus.com/MetaViewer.php?view_id=6&event_id=2258&meta_id=264932

[19] Los Angeles Department of Water and Power 2015 Briefing Book at 6, available at: https://www.ladwp.com/cs/idcplg?IdcService=GET_FILE&dDocName=OPLADWPCCB423407&RevisionSelectionMethod=LatestReleased

[20] S-1 at 150.

[21] S-1 at 151.

[22] S-1 at 157

> According to Wood Mackenzie, China, a key market participant, has experienced a decrease in demand for imports and has introduced additional related and protectionist policies that have negatively impacted trade and prices. Demand from China is expected to decrease from 207 million metric tons in 2014 to 176 million metric tons in 2015. Additionally, there was an increase in availability of supply primarily from Australia. The metallurgical and thermal coal exports from Australia increased by approximately 14 million metric tons and 20 million metric tons in 2014 and 2015, respectively. However, demand for seaborne metallurgical coal is expected to rise from 286 million metric tons in 2014 to 292 million metric tons in 2014.
>
> The prices for thermal and metallurgical coal in the export market can be relatively volatile and dependent on many factors including various supply and demand dynamics as well as currency exchange rates. Most recently, the relatively strong U.S. dollar and oversupply that exists in the international coal markets have pushed prices substantially lower than the peaks established in 2011.[23]

This less favorable assessment, also attributed to Wood Mackenzie, is more consistent with other recent assessments concluding a poor outlook for pacific seaborne coal. On June 3, 2015, the Institute for Energy Economics and Financial Analysis ("IEEFA") issued a memorandum to Greenpeace describing the changing trends in Chinese coal imports:

> Chinese coal imports dropped to 282 million tons per year in 2014, from a level of 327 million tons in 2013. (Prior to 2008 China rarely imported more than 50 million tons of coal). Chinese coal imports remain challenged amid slower demand and efforts to support the domestic coal industry, including quality restrictions, tariffs and lower domestic taxes that have temporarily prevailed over delivered import economics. In the first two months of 2015, Chinese, thermal coal imports declined 51%, while metallurgical coal imports fell 14%, indicating relatively stronger underlying Chinese seaborne metallurgical coal demand.[24]

Notably, Bowie would supply thermal coal as opposed to metallurgical coal to the Pacific markets. As noted by IEEFA, thermal coal markets are weakening compared to the overall coal market. IEEFA went on to describe the collapse in global thermal coal prices due to market oversupply:

> International thermal coal prices have collapsed and are likely to stay low for the foreseeable future. The price of Newcastle Coal, an Australian coal product used as a global benchmark for thermal coal,

[23] Amendment No. 9 to Form S-1, CNX Coal Resources LP (June 30, 2015) at 124.

[24] Sanzillo, Tom, *Memorandum: CONSOL Proposal to Create CNX Coal Resources LP*, June 3, 2015 at 6-7 (internal citations omitted) available at: http://www.greenpeace.org/usa/wp-content/uploads/legacy/Global/usa/planet3/PDFs/Consol%20Memo%20from%20IEEFA.pdf

> fell dramatically from 2011 to the present. At its peak in January 2011, the price was $141.94 per ton. On March 19, 2015 the Newcastle price was $59.50 per ton. Looking forward, one Newcastle Coal Futures database identifies coal price contracts from 2016 to 2021 as trading in the $55.00 to $60.00 range. Persistent low prices are a sign that demand is falling. More to the point, the market gains that characterized the 2001 through 2011 period have faltered.[25]

These negative projections followed similar assessments of a challenging international coal market by Bernstein Research (predicting zero net imports for China in 2015 and falling Chinese demand by 2016), Goldman Sachs ("[e]arning a return on incremental investment in thermal coal mining and capacity is becoming increasingly difficult"), J.P. Morgan ("[i]t's not economic to export US coal at present"), and Citibank (recommending that investors price in higher probabilities of lower coal demand from China).[26]

Bowie did not include in its S-1 any assessment of the weaknesses in the Pacific seaborne coal market discussed above. At a minimum, Bowie should amend its S-1 to advise investors of the decreasing trend in Chinese coal import demand and falling global prices.

V. Export Capacity Concerns

Sierra Club also questions Bowie's ability to deliver its coal to seaborne markets through West Coast ports. Bowie touted its position as the "only coal producer with contracted U.S. West Coast export capacity, with aggregate throughput capacity of approximately 5.7 million tons through the Port of Stockton, California and the Levin-Richmond Terminal."[27] Sierra Club is not aware of any public information to directly contradict Bowie's assertion of <u>contracted</u> capacity at these terminals. However, the available statistics of <u>actual</u> tons shipped in recent years falls far short of the 5.7 million tons of capacity that Bowie asserted is available.

Bowie noted in the S-1 that in 2014, it shipped a total of only 3.3 million tons in 2014, and it expects to ship only 1.0 million tons in 2015.[28] These numbers fall far short of the asserted 5.7 million tons of capacity available to Bowie to export through California ports.

Bowie also failed to mention that it risks losing its export capacity at the Levin-Richmond terminal. Bowie acknowledged that its contract with the Levin-Richmond terminal expires at the end of this year on December 31, 2015. However, Bowie failed to disclose that on May 19, 2015, the City of Richmond, California passed Resolution No. 48-15, which opposes the transport and export of coal through Richmond and the Port of Richmond.[29] A local media outlet reported that the port operator, Levin-Richmond Terminal Corp., expressed concern that the resolution would impair its ability to stay in

[25] *Id*. at 8 (internal citations omitted).
[26] *See, id*. at 11-14 (internal citations omitted).
[27] S-1 at 142.
[28] S-1 at 127.
[29] http://ca-richmond2.civicplus.com/ArchiveCenter/ViewFile/Item/6542

business.[30] If the Richmond resolution opposing coal export prevents the Levin-Richmond Terminal from exporting coal, Bowie's available capacity to ship coal from the west coast could be reduced by 1.7 million tons per year once the existing contract with Levin-Richmond expires at the end of this year.

Bowie also faces challenges in Stockton. Although Bowie claimed access to approximately 4.0 million tons per year in port capacity through the Port of Stockton, the historic export numbers appear much lower. The Port of Stockton's 2014 Annual Report indicated only 1.26 million tons of coal exported (from all companies) for the year ending June 30, 2015.[31] Sierra Club further believes that Stockton has maxed out its coal export capabilities this year and that additional expansion of coal export through the Port of Stockton is not possible unless and until the port completes a new rail line expansion.

Bowie faces substantial opposition to new or expanded coal export capacity, either at Stockton or elsewhere. On June 24, 2015, Sierra Club filed a lawsuit against the Port of Stockton alleging that the port violated the California Environmental Quality Act ("CEQA") when it approved the proposed rail expansion without undergoing the appropriate environmental review.[32] If the lawsuit is successful, the port's proposed expansion could be negatively impacted, which in turn could delay or limit Bowie's ability to export a higher volume of coal through Stockton.

Bowie also faces substantial opposition to recent proposals to add coal export capacity through other cities. On February 13, 2014, the Port of Oakland Board of Commissioners voted to reject a proposal by Bowie to export coal through the Howard Terminal. Port staff concluded:

> Upon review and analysis of the Bowie proposal, staff believes that Bowie's proposed use and operation of the property raises environmental concerns related to the handling of commodities such as coal. Environmental concerns about handling commodities such as coal stem primarily from issues of fugitive dust and climate change. Port staff believes that operations such as those proposed by Bowie conflict with recently adopted Port policies and programs intended to create or support environmental sustainability…"[33]

A subsequent proposal to consider exporting coal through a proposed new bulk-export terminal on land owned by the City of Oakland has met similar resistance.[34] The City of Oakland is scheduled to hold a public hearing on September 21, 2015 to consider the impacts to health and public safety from transporting and shipping coal in Oakland with

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[30] *Richmond Council Votes to Oppose Coal Transport in City*, Contra Costa Times, May 21, 2015, available at: http://www.contracostatimes.com/richmond/ci_28156675/richmond-council-votes-oppose-coal-transport-city

[31] Port of Stockton, *Comprehensive Annual Financial Report For the Years Ended June 30, 2014 and 2013*, at 66. Available at http://www.portofstockton.com/wp-content/uploads/2015/03/Final2014.pdf .

[32] *Sierra Club vs. Port of Stockton*, Superior Court of California, San Joaquin County, Case No. 39-2015-00326590-CU-WM-STK (June 25, 2015).

[33] Port of Oakland Board of Port Commissioners, Supplemental Agenda, Feb. 13, 2014, Action Item Tab 6.4, available at: http://www.portofoakland.com/pdf/about/meetings/2014/boar_shee_140213.pdf

[34] *See, Plan To Send Coal Through Oakland Met With Protests,* Oakland KPIX 5, July 21, 2015, available at: http://sanfrancisco.cbslocal.com/2015/07/21/oakland-coal-facility-protests-city-hall-export-terminal-waterfront/; *Oakland City Council to have public hearing on exporting coal*, Contra Costa Times, July 17, 2015, available at: http://www.contracostatimes.com/breaking-news/ci_28499049/oakland-city-council-have-public-hearing-exporting-coal

the potential for the city to regulate based on the information presented at the hearing. The project will likely continue to face substantial community opposition if it continues to include the prospect of coal exports through Oakland.

Sierra Club's understanding of Bowie's export capabilities is based on publicly available information. However, based on our review of the publicly available information, it appears that actual export statistics and port capabilities fall far short of Bowie's asserted export throughput capacity. In light of the recurring community opposition movements to exporting coal through California and other ports on the West Coast, Bowie should inform investors of the potential risks related to its ongoing ability to get its Utah coal to seaborne markets through California ports.

Sierra Club appreciates the opportunity to provide these comments.

Sincerely,

*/s/ Travis Ritchie*____

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