



Illinois Department of Natural Resources

One Natural Resources Way Springfield, Illinois 62702-1271
www.dnr.illinois.gov

Bruce Rauner, Governor
Wayne A. Rosenthal, Director

January 30, 2017

The Honorable Paul Ryan
Speaker
United States House of Representatives
H-232, US Capitol
Washington, DC 20515

The Honorable Mitch McConnell
Majority Leader
United States Senate
317 Russell Senate Office Building
Washington, DC 20510

Re: The Stream Protection Rule and The Congressional Review Act

Dear Speaker Ryan and Majority Leader McConnell:

As the regulatory authority for administering the federal Surface Mining Control and Reclamation Act (“SMCRA”) in the State of Illinois, the Department of Natural Resources (“Department”) appeals Congress to use its power under the Congressional Review Act to disapprove the “Stream Protection Rule” (“Rule”), issued by the Office of Surface Mining Reclamation and Enforcement (“OSM”) at 81 Fed. Reg. 93066 (Dec. 20, 2016).

The Rule’s “one size fits all” approach to regulatory performance standards fails to incorporate important regional differences, such as local geology, hydrologic regime, and climate, as required under SMCRA. For example, stream loss has rarely been a problem in the State of Illinois given the regional hydrogeology of the Illinois Basin. To universally require long term upstream and downstream monitoring would place an undue burden on the State to continually review such data. The rule gives no discretion to state regulatory authorities.

Despite the claims of OSM in its Regulatory Impact Analysis, the Rule would place significant burdens and additional costs on state regulatory programs. Compliance with the rule would require the Department to revise and restructure its entire coal mining program and add \$600,000 to \$800,000 per year in staffing and equipment costs.


OSM’s failure to properly consult with the State of Illinois and the other states has resulted in a burdensome and unlawful Rule that usurps states’ authority as primary regulators of coal mining as intended by Congress under SMCRA, and demands congressional action.

The Congressional Review Act provides Congress the authority to take action to avoid the harm imposed by the Rule. Accordingly, we respectfully request that you and your

colleagues in the Congress pass a joint resolution disapproving the Final Stream Protection Rule under the procedures of the Congressional Review Act, 5 U.S.C. 801 et seq., so that it shall have no continuing force or effect.

Thank you for your careful consideration of this request.

Sincerely,



Wayne A. Rosenthal
Director, Department of Natural Resources

Cc: Members, Illinois Congressional Delegation