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U.S. House of Representatives
Committee on Natural Resources
Washington, DC 20515

May 15, 2012

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DEMOCRATIC STAFF DIRECTOR

The Honorable Jeffrey Zients
Acting Director
Office of Management and Budget
Executive Office Building
Washington, D.C. 20503

Dear Acting Director Zients:

On February 3, 2012, a document request was sent to OMB and OIRA regarding OMB's involvement in the Department of the Interior's ("DOI") Office of Surface Mining Reclamation and Enforcement's ("OSM") rewrite of the 2008 Stream Buffer Zone Rule ("Rule") that included a deadline for a response of no later than February 16, 2012.

To date, considerable patience has been demonstrated in seeking OMB's compliance with this request. However, the Office's actions have been consistently underwhelming and after three months of delays and excuses, it is time for OMB to fully respond by providing all requested documents and communications. To understand the extent of OMB's failure to adequately respond, it is useful to review a timeline of its inaction.

On March 9, 2012, Committee counsel emailed OMB staff requesting a conference call to discuss what category of documents had been collected, what terms were used to search for them, whether any of those documents were being withheld and what privilege, if any, was being asserted. As of today's date, this request for a conference call has not been responded to.

On March 21, 2012, a second letter was sent to OMB expressing disappointment at the lack of response and again requesting responsive documents on this matter. On March 22, 2012, Committee counsel emailed OMB staff concerning this second letter, which resulted in OMB staff responding to Committee counsel's March 9, 2012 email, stating that no regulatory action was currently under review and "Most, if not all, of the documents that OIRA has reviewed regarding this rule would also be in possession of DOI, which would have been the source of these documents." However, the written instructions in the February 3, 2012 letter to OMB clearly stated that "In complying with this document request, you are required to produce all responsive documents, materials, or items that are in your possession, custody, or control. . . ." (Instruction 1) Additional instructions indicated that, "It shall not be a basis for refusal to

produce documents that any other person or entity also possesses documents that are non-identical or identical copies of the same document.” (Instruction 5) These, along with the other instructions, were included to help OMB determine what responsive documents they were required to produce.

To be perfectly clear, this is not a joint document request with OMB and DOI. The oversight of OMB’s role in the rewrite of this Rule is separate and distinct from other oversight that we may be undertaking and OMB’s responsibility in this regard is to respond to the Congressional request.

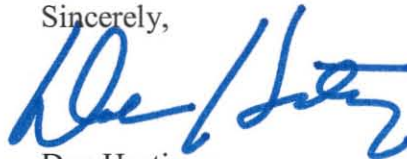
On March 27, 2012, a letter was received from Kristen Sarri, Associate Director of Legislative Affairs. The only responsive documents that accompanied the letter were two similar drafts of the Advanced Notice of Proposed Rulemaking, one of which is publicly available. This is not an acceptable response to a legitimate Congressional oversight inquiry.

Again, while patience has been shown in seeking OMB’s compliance, it is not acceptable to simply produce documents that are already publicly available while using DOI as a shield from complying with a request that OMB directly received and has a responsibility to comply with.

It is concerning that, despite pledges of openness and transparency by President Obama and his Administration, it is necessary to write another letter requesting a responsive production. Therefore, it is requested that you cease delay tactics and promptly provide all documents, communications, and information related to the involvement of OMB in the rewrite of the Rule as instructed in the February 3, 2012 letter to OMB. All responsive documents are to be provided no later than May 24, 2012. After three months of delay, a continued failure to disclose these documents will prompt action to compel their production through issuance of a subpoena.

Please have your staff contact Tim Doyle, Senior Counsel and Director of Investigations for the Office of Oversight and Investigations, with any questions regarding this request, or to make arrangements for the production.

Sincerely,



Doc Hastings
Chairman