

STATEMENT OF
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BEFORE THE

COMMITTEE ON NATURAL RESOURCES
SUBCOMMITTEE ON ENERGY AND MINERAL RESOURCES
U.S. HOUSE OF REPRESENTATIVES

ON THE
FISCAL YEAR 2012 BUDGET REQUEST

APRIL 7, 2011

Mr. Chairman and Members of the Subcommittee, thank you for inviting me to testify on the Fiscal Year 2012 budget request for the Office of Surface Mining Reclamation and Enforcement (OSM).

The Surface Mining Control and Reclamation Act of 1977 (SMCRA) established the Office of Surface Mining Reclamation and Enforcement for two basic purposes: First, to assure that the Nation's coal mines operate in a manner that protects citizens and the environment during mining operations and restores the land to beneficial use following mining; and second, to implement an Abandoned Mine Lands (AML) program to address the hazards and environmental degradation remaining from two centuries of unregulated mining. These tasks are vital to public health and safety, and the environmental well-being of the United States.

The SMCRA recognized the need to ensure that the Nation strikes a balance between the protection of the environment and the Nation's need for energy. Nearly 34 years after the passage of SMCRA, coal remains an important fuel source for our country, providing about half of our Nation's electricity. In the continued drive to decrease our Nation's dependence on foreign oil, coal will continue to be part of our domestic supply of energy for the foreseeable future.

While new energy frontiers are being explored, including the development of clean coal, the coal supply (conventional coal production) is essential to the Nation's energy requirements. In order to ensure that coal is produced in an environmentally conscious way, OSM is committed to carrying out the requirements of SMCRA in cooperation with States and Tribes. Of the almost 2,400 employees involved in carrying out these two responsibilities on a daily basis, less than 25 percent are employed by OSM. The rest are State and Tribal employees who implement programs approved by the Secretary of the

Interior with assistance from OSM. States permit and regulate 97 percent of the Nation's coal production. States and Tribes also abate well over 90 percent of the AML problems.

The major tasks for OSM are to ensure that States and Tribes successfully address coal mining activities by ensuring they have high-quality regulatory and AML frameworks and to oversee implementation of their programs. Importantly, OSM also provides technical assistance, funding, training, and technical tools to the States to support their regulatory and reclamation programs.

Currently, 24 States have approved regulatory programs in place pursuant to Title V of SMCRA. There are 25 States and three Tribes that administer approved AML programs pursuant to Title IV of SMCRA.

Since enactment of SMCRA in 1977, OSM has provided more than \$3 billion in grants to States and Tribes to clean up mine sites abandoned before passage of SMCRA. In the course of addressing health, safety and environmental hazards, about 255,000 acres of Priority 1 and 2 abandoned coal mine sites have been reclaimed under OSM's AML Program, though many sites still remain.

The authority to collect and distribute the AML reclamation fee was revised by the Tax Relief and Health Care Act of 2006, which included the 2006 Amendments to SMCRA (Public Law 109-432). Among other things, these amendments extended the authority for fee collection on mined coal through September 30, 2021, and changed the way that State and Tribal reclamation grants are funded, beginning in FY 2008. State and Tribal grants are funded by permanent appropriations that are derived from current AML fee collections and the general fund of the U.S. Treasury.

The 2006 Amendments dramatically increased funding to States and Tribes, from \$145.3 million in FY 2007 to the most recent distribution made available of \$395.6 million for FY 2011. Because of the increased State and Tribal funding, OSM began phasing out Federal responsibility for addressing AML emergency projects. It is more efficient and cost effective to provide responsibility for AML related issues to a single manager, from a single source of funding. In FY 2012, States with AML programs will have fully assumed this responsibility, so the budget eliminates the remaining discretionary funding for State emergency grants and Federally-managed emergency projects.

The budget also includes a legislative proposal to reform the AML reclamation program to eliminate unnecessary spending and focus reclamation efforts on the Nation's most dangerous abandoned mines. First, the budget proposes to eliminate the unrestricted payments to States and Tribes that have completed their abandoned coal mine reclamation. Terminating these payments will save taxpayers \$1.2 billion over the next decade. Second, the budget proposes to reform the allocation of grants for coal AML reclamation to a competitive process. The current production-based formula allocates funding to States that have the most coal production and not necessarily States with the most critical reclamation needs. A competitive process would ensure that funding addresses the highest priority AML coal sites across the Nation, regardless of which State

they are located in and how much coal is currently produced. Third, the budget proposes to create a parallel hardrock AML program, with fees collected by OSM and distributed competitively by the Bureau of Land Management. The mandatory distribution to the United Mine Workers of America (UMWA) health benefit plans, estimated at \$225.3 million in FY 2012, will not be affected by this proposal.

Fiscal Year 2012 Budget Request Overview

The FY 2012 budget request for OSM totals \$145.9 million in discretionary spending and supports 528 equivalent full-time positions. Compared with the 2010 enacted level of \$162.9 million, this represents a net decrease of \$17.0 million. The budget request contains a programmatic increase of \$3.9 million for expansion and enhancement of Federal oversight and stream protections. Reductions include \$11.0 million in discretionary spending for State regulatory program grants to be offset with increased user fees for services provided to the coal industry; \$6.8 million for State and Federal emergency grants and projects, Federal high-priority projects, and related Federal reclamation operations staff; \$1.2 million for technical studies and mine mapping under the Applied Science Program; \$500,000 for audit activities; and \$160,000 for coal outcrop fire projects. The budget also includes a decrease of \$1.3 million for administrative savings and efficiencies.

OSM's budget also contains an estimated \$539.1 million in permanent appropriations. This spending includes \$313.8 million for reclamation grants to non-certified States and Tribes (those with remaining abandoned coal mine problems); and \$225.3 million for the UMWA for specified health benefits plans. This spending is derived from both the AML and U.S. Treasury Funds. The estimates, as contained in the budget submission, are projections based on information current as of the end of the 2010 calendar year and subject to change since they are based on fee collections and requests from the UMWA.

Regulation and Technology Appropriation

The OSM's overall FY 2012 request includes \$118.5 million for the Regulation and Technology appropriation, \$8.8 million below the 2010 enacted level. This includes an increase in funding and staff to support the expansion and enhancement of Federal oversight of State programs and stream protections, and reductions for regulatory grants, technical studies, and other efficiency gains. The FY 2012 budget request will enable OSM to provide financial and technical support, and training to the 24 States with approved regulatory programs. It will also enable OSM to continue to administer Federal regulatory programs in States that do not operate their own programs and on Federal and Tribal lands.

The requested programmatic increase of \$3.9 million and 25 FTE will support the Administration's commitment to significantly reduce the harmful environmental impacts of coal mining in Appalachia, formalized in a Memorandum of Understanding (MOU) with the Army Corps of Engineers and the Environmental Protection Agency. Increased resources and technical skills are needed to implement this new strategic direction i.e., enhanced oversight, stream protections to maintain the hydrologic balance of watersheds,

coordinated permitting, and increased transparency as priorities for the coming years, while continuing to provide the technical support and training that States and Tribes need to maintain program effectiveness.

A large portion of the regulatory and technology funding appropriated to OSM is distributed to the States and Tribes in the form of regulatory grants. These grants account for 51 percent of this proposed appropriation. For FY 2012, the request includes \$60.3 million for regulatory grants, \$11.0 below the 2010 enacted level. States are encouraged to offset the decrease in Federal funding by increasing cost recovery fees for services to the coal industry. The decrease supports the Administration's commitment to reduce subsidies to fossil-fuel industries.

In addition, a decrease in technical studies of \$834,000 is proposed. OSM will use its existing staff to provide direct technical assistance to the States and Tribes to address technical on-the-ground issues instead of funding nationwide or regional studies.

The remaining portion of the budget provides funding for OSM's regulatory operations on Federal and Indian lands, evaluation and oversight of State regulatory programs, technical training and other technical assistance to the States and Tribes as well as administrative and executive activities.

Abandoned Mine Reclamation Fund Appropriation

The request includes \$27.4 million for the AML appropriation, which is \$8.1 million below the 2010 enacted level. The budget supports OSM's program evaluations and reclamation operations, watershed cooperative agreement projects, fee compliance and audits, technical training and other technical assistance to the States and Tribes as well as administrative and executive activities. Reductions are proposed for State and Federal emergency grants and projects, Federal high-priority projects, related Federal reclamation operations staff, the Applied Science Program (technical studies and preservation of mine maps), audits related to coal export litigation, and coal outcrop fire projects and monitoring.

As previously stated, because of the increased State and Tribal funding, OSM began phasing out Federal responsibility for addressing AML emergency projects. Therefore, the budget request eliminates discretionary funding for State emergency grants and Federally-managed emergency projects. States with AML reclamation programs will now address AML emergencies to improve efficiency and coordination.

The budget proposes to decrease funding for technical studies by \$366,000 and \$160,000 for coal outcrop fire projects. In addition, the proposal reduces funding for audit activities related to coal export issues because the funding is no longer needed. The balance of the reductions for this account is derived from efficiencies in travel and strategic sourcing.

Permanent Appropriations

The OSM will continue to distribute mandatory funding to States and Tribes under the AML program and make payments to the UMWA health benefit plans. The budget request includes a legislative proposal to eliminate payments to certified States and Tribes and restructure AML coal payments from a production-based formula to a competitive process, allocating \$313.8 million in 2012 for reclamation of the highest priority coal AML sites in the Nation. In addition, the proposal will also create a new parallel AML program for the reclamation of abandoned hardrock mines, funded by an AML fee on hardrock production. Altogether, this proposal will reduce Federal spending by an estimated \$184.2 million in 2012 and an estimated \$1.8 billion over the next decade while ensuring that the Nation's highest priority abandoned coal and hardrock mines are addressed.

Initiatives

The OSM's activities and related budget support the Presidential and Secretarial initiatives for responsible production of coal through the protection, preservation, and restoration of mined lands; restoration of lands left unreclaimed; and provision of opportunities for youth.

It is essential to have properly mined coal and to see that land is reclaimed in accordance with the permit and the law. State permitting actions and inspections of mine sites are among the most important ways to help ensure the law is being implemented and to protect society and the environment. Consistent with the intent of SMCRA that States take the lead in regulating coal mining, in FY 2010, States completed 49,799 partial and 29,095 complete inspections for a total of 78,894 inspections. The OSM conducted 2,067 oversight inspections in primacy States during that year, a 40 percent increase over the number conducted in FY 2009.

As part of the Secretarial initiative to increase youth employment in DOI programs, OSM set a goal in FY 2010 and FY 2011 to increase youth engagement by 35 percent over the FY 2009 baseline. In FY 2010, OSM engaged 218 youth. Accomplishments included engaging 198 youth through partnership efforts and 20 new students under other hiring authorities. In FY 2012, OSM will continue to support the program through ongoing activities and partnerships, with a cumulative goal of engaging 219 youth in its programs.

Conclusion

The FY 2012 budget is a fiscally responsible request that lowers the cost to the American taxpayer while ensuring coal production occurs in an environmentally responsible way.

Thank you for the opportunity to appear before the Committee today and testify on the FY 2012 budget request for OSM.

Please be advised that due to my previous position with the Commonwealth of

Pennsylvania, I have recused myself from matters pertaining to Pennsylvania that would present a conflict or an appearance of impropriety. The Committee questions that fall within the scope of my recusal I will refer to my deputy, Glenda Owens, who is here today.