

Congress of the United States
Washington, DC 20515

July 29, 2015

The Honorable Joseph G. Pizarchik
Director
Office of Surface Mining Reclamation and Enforcement
U.S. Department of the Interior
1941 Constitution Avenue NW
Washington, DC 20240

Dear Director Pizarchik:

On Thursday, July 16, the Office of Surface Mining Reclamation and Enforcement (“OSM”) published the proposed “Stream Protection Rule” (“Proposed Rule”) and related draft environmental impact statement (“DEIS”). The publication of these long-delayed documents culminates a six-year process, in which this Administration spent approximately \$10 million to engage in an unnecessary rewrite of the stream buffer zone rule. These documents represent yet another volley in this Administration’s war on the working class and arrive without necessary public input to guide their development – despite claims of a “robust public process.”¹ To ensure stakeholders will be given adequate time to address this adverse rule, we seek the extension of the public comment period for the Proposed Rule and associated documents by at least 120 days.

As you know, the Committee on Natural Resources (“Committee”) has been investigating OSM’s questionable promulgation of this rule since a draft of the environmental impact statement and rule leaked to the press showed a loss of 7,000 jobs in Appalachia.² Although the Committee has continually raised concerns to the Administration about these adverse economic effects, the Proposed Rule keeps the hostile trajectory of the draft intact. Indeed, the DEIS indicates the Appalachian Basin could see as many as 450 production related jobs lost per year, with potential adverse impacts of \$37 million annually.³ With such an impact on one region alone, it is imperative the length of the comment period reflect the gravity of the Proposed Rule’s effects and allow potentially affected stakeholders adequate time to ensure their voices are heard.

Furthermore, this regulation omits and ignores the relevant input from those stakeholders with the most expertise in regulating mining – the States. The Committee has echoed the concerns of eleven coal-producing states that OSM failed to “provide[] for meaningful participation by the cooperating agency states” and limited involvement in the DEIS development process.⁴ In turn, the

¹ Press Release, U.S. Department of the Interior, Interior Department Unveils Proposed Stream Protection Rule to Safeguard Communities from Coal Mining Operations (July 16, 2015).

² See February 8, 2011 Letter from Rep. Doc Hastings, Chairman of the H. Comm. on Natural Resources, to Joseph G. Pizarchik, Director of the Office of Surface Mining Reclamation and Enforcement, *available at* <http://naturalresources.house.gov/uploadedfiles/ltrtosalazarresbzrinfo02-08-11.pdf>.

³ Office of Surface Mining Reclamation and Enforcement, Stream Protection Rule Environmental Impact Statement: Draft – July 2015, at 4-205, 4-218.

⁴ See April 2, 2015 Letter from Rep. Rob Bishop, Chairman of the H. Comm. on Natural Resources, to Joseph G. Pizarchik, Director of the Office of Surface Mining Reclamation and Enforcement, *available at* http://naturalresources.house.gov/uploadedfiles/letter_to_director_pizarchik_on_steam_protection.pdf.

Committee has initiated an investigation and requested the U.S. Government Accountability Office to examine whether OSM upheld its regulatory mandates towards the states as cooperating agencies.

Despite OSM's assurances that it would "continue to engage the state cooperating agencies on the preparation of the DEIS," the lack of outreach and engagement with the states forced nine to withdraw from the process.⁵ These withdrawals demonstrate the closed process in the Administration's development of the rule. In recognition of Secretary Jewell's statement that the Department of the Interior would "be taking input from states . . . when . . . we're in the public comment period," it would be unfair and inequitable if those stakeholders charged with regulating over 97 percent of the Nation's coal production were not given an adequate opportunity to assess the Proposed Rule.⁶

Given that the Proposed Rule and DEIS are the subject of multiple congressional oversight hearings and investigations, have had limited public input, and are voluminous in content, totaling over 2,500 combined pages while altering approximately 475 individual rules, OSM must extend the comment period to ensure adequate time for a review of the documents. OSM has had over 2,000 days to draft this complex and overwhelming rule, yet only provided stakeholders a 60-day comment period. An extension of 120 days would bring the total comment period to 180 days – less than 10 percent of the time OSM had to work on the Proposed Rule behind closed doors.

Your prompt consideration of this request is greatly appreciated.

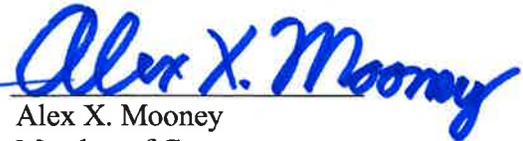
Sincerely,



Rob Bishop
Chairman
Committee on Natural Resources



Doug Lamborn
Chairman
Subcommittee on Energy and
Mineral Resources
Committee on Natural Resources



Alex X. Mooney
Member of Congress

⁵ April 17, 2015 Letter from Joseph G. Pizarchik, Director of the Office of Surface Mining Reclamation and Enforcement, to Rep. Louie Gohmert, Chairman of the H. Subcomm. on Oversight & Investigations, H. Comm. on Natural Resources *available at* http://naturalresources.house.gov/uploadedfiles/letter_to_director_pizarchik_on_steam_protection.pdf.

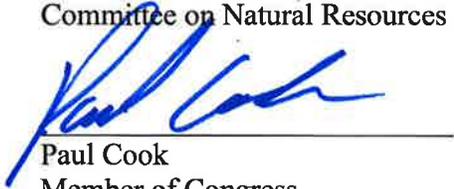
⁶ Budget Hearing – Department of the Interior: Hearing before the Subcomm. on Interior, Environment, and Related Agencies, of the H. Comm. on Appropriations, 114th Cong. (statement of Sally Jewell, Secretary, Department of the Interior) (Feb. 25, 2015). U.S. Department of the Interior, 2016 Budget Justifications: Office of Surface Mining Reclamation and Enforcement, at 1 (2015).



Louie Gohmert
Chairman
Subcommittee on Oversight and
Investigations
Committee on Natural Resources



Don Young
Member of Congress



Paul Cook
Member of Congress



Kevin Cramer
Member of Congress



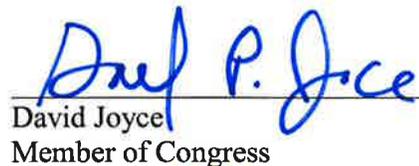
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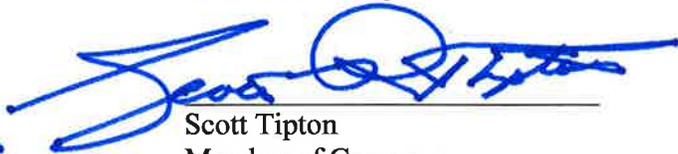
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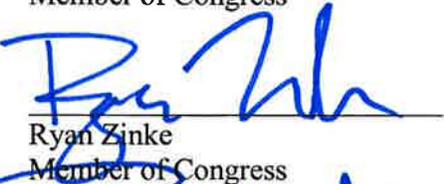
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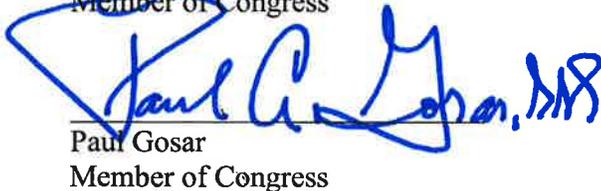
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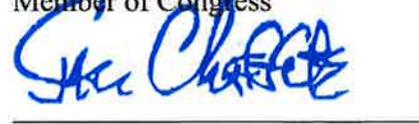
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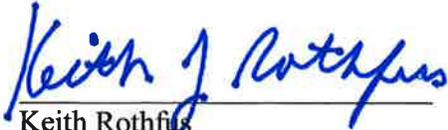
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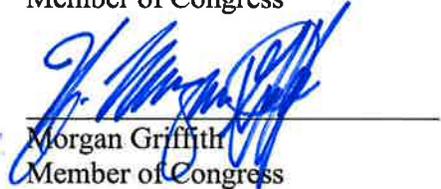
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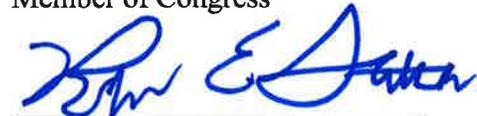
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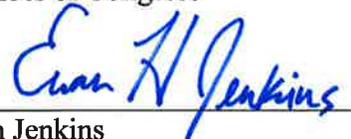
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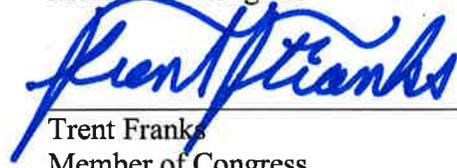
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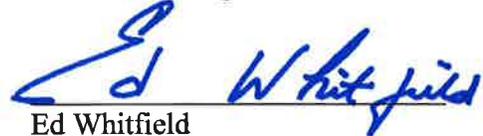
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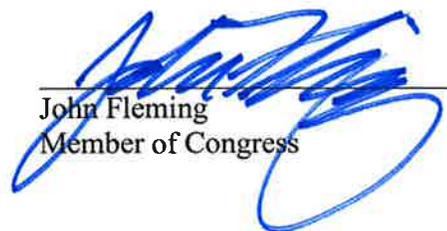
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