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

Opening Statement of
Chairman Doug Lamborn
Subcommittee on Energy and Mineral Resources
Before the Oversight Hearing on

***"Jobs at Risk: Waste and Mismanagement by the Obama Administration in
Rewriting the Stream Buffer Zone Rule"***
November 4, 2011

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On Monday, September 26, of this year the Subcommittee held a field oversight hearing titled "*Jobs at Risk: Community Impacts of the Obama Administration's Effort to Rewrite the Stream Buffer Zone Rule*" in Charleston, West Virginia where we heard from state regulators, the coal industry, West Virginia Governor Tomblin, Senator Manchin and many others directly on the adverse impacts to communities of the Administration's proposed rule.

During today's hearing we will hear from the Director of the Office of Surface Mining as part of the Committee's ongoing investigation into the re-write of the 2008 Stream Buffer Zone Rule. In addition we will also discuss the recent Secretarial Order requiring the merger of the Office of Surface Mining with the Bureau of Land Management. A proposal I am deeply concerned about impacting the ability of the Nation to access our vast coal resources. Furthermore there are clear statutory limitations prohibiting the OSM from leasing or promoting coal which is a key responsibility of BLM.

It is frequently said that transparency and openness, are laudable goals for any Administration and purportedly they are a goal of this Administration.

The President has said that "My Administration is committed to creating an unprecedented level of openness in Government. We will work together to ensure the public trust and establish a system of transparency, public participation, and collaboration. Openness will strengthen our democracy and promote efficiency and effectiveness in Government."

After the testimony we heard in September and at the Budget hearing in April I can't say that I would characterize the current rule making process as a stellar example of "transparency or openness."

The one exception might be from the June 18, 2010 Federal Register Notice that said: "we had already decided to change the rule following the change of Administrations on January 20, 2009." And that's about where the "transparency and openness" ends.

Wyoming Governor Freudenthal's made this point in a December 6, 2010 letter to you where he stated: "The action OSM is undertaking is a comprehensive rewrite of regulations under the Surface Mining Control and Reclamation Act (SMCRA) not a stream protection rule. The packaging of this major revision to a law that has served the country well for over 40 years as a "stream protection rule" is misleading. Some of the changes being contemplated have broad implications and deserve thoughtful evaluation.Yet, we do not believe we have been given meaningful opportunity to comment and participate. Sections of the EIS with 25, 50, and even 100's of pages are distributed to the States with only a few days to read, review, and provide comment back to the agency."

The Western Governors Association and other cooperating agencies raised similar concerns with you in separate letters. In addition, they complained bitterly about the quality, completeness and accuracy of the draft portions of the EIS that they had reviewed. Testimony at the West Virginia hearing from various states shows that they believe the serious shortcomings in how their input was solicited rises to the level of legally objectionable deficiencies of process.

This Committee has heard from industry, whose engineering analysis of the draft rule that was leaked earlier this year, showed that not only would mountain top mines be affected by the new rule but the Nation's underground long wall and room and pillar mines as well.

One company has estimated that this would result in a loss of 40 percent of their eastern longwall minable reserves. At current market prices this equates to a \$66 billion loss and a major hit to the US taxpayer. And that's only one company we're talking about.

More than 130,000 Americans depend on coal production for their livelihood. Throughout the United States there are places where the only industry in town is the coal mine. While this Administration may think it is a "preferred alternative" to displace tens of thousands of workers, destroying coal mining will kill these one industry towns, push tens of thousands of American families into poverty, and leave our nation poorer – all reversing the original intent of SMCRA.

SMCRA was designed to promote the development fuel to help meet the energy needs of the American people while ensuring the extraction of coal in an environmentally responsible manner.

Our abundant natural resources have made the US the richest country in the world, helped us win world wars, and raised our standard of living far above the rest of the world. Promoting increased access to those resources will continue to allow us to become less dependent on foreign sources of energy and mineral resources, create new private sector jobs and add revenue to government coffers reducing the National debt and thereby increasing our National and Economic Security.

Unfortunately, we have an Administration that sees thousands of job losses as the preferred alternative and rushes a major rulemaking by limiting public comment because their decision has already been made. This is poor policy and poor management and in the end will only make America poorer.