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January 30, 2017

The Honorable Mitch McConnell
Majority Leader
United States Senate
S-230, U.S. Capitol
Washington, DC 20510

The Honorable Paul Ryan
Speaker
U.S. House of Representatives
H-232, U.S. Capitol
Washington, DC 20515

Dear Majority Leader McConnell and Speaker Ryan:

On January 17, 2017, Colorado joined thirteen other states in challenging the legality of what is commonly known as the “Stream Protection Rule,” 81 Fed. Reg. 93,066 (Dec. 20, 2016) (the “Rule”). The Rule, which was issued by the Interior Department’s Office of Surface Mining Reclamation and Enforcement (“OSM”), is a dramatic overreach by the Federal Government. The rule was to take effect January 19, 2017, literally on the last day of the prior administration. I now write in support of the Congress exercising its regulatory oversight authorities, specifically the procedures of the Congressional Review Act (CRA), 5 U.S.C. 801 et seq., to invalidate the Rule.

While Colorado already has taken appropriate steps to seek judicial intervention, invalidating the Rule will preserve resources otherwise spent on litigation and put an end to harm suffered not only by Colorado, but also by many other states across the country that rely heavily on mining operations for resources, jobs and their larger economy.

In late 2015, Congress gave guidance to the Interior Department concerning the Stream Protection Rule. Congress passed the Consolidated Appropriations Act of 2016, P.L. 114-113, 161 Cong. Rec. H10217 (daily ed. Dec. 17, 2015) directing OSM to engage previously ignored states, and requiring OSM to share information and meet with states to receive input and feedback for incorporation into the Rule in a meaningful way. Unfortunately, OSM failed to fulfill this directive.

As a result of the lack of genuine consultation, the Rule ignores the Surface Mining Control and Reclamation Act’s requirement that states act as the primary regulators of mining. The Rule imposes a one-size-fits-all approach for the entire country despite Congress’ recognition, when enacting the Surface Mining Act, 30 U.S.C. §§ 1201-1328, that “diversity in terrain, climate, biologic, chemical, and other

physical conditions in areas subject to mining operations” dictates local control and state-level governmental regulatory responsibility. 30 U.S.C. § 1201(f).

Thank you in advance for your consideration of my views on this important matter.

Respectfully,



CYNTHIA H. COFFMAN
Colorado Attorney General

CC: Colorado Federal Delegation

The Honorable Michael Bennet, Senior Senator
The Honorable Cory Gardner, Junior Senator
The Honorable Ken Buck, Representative
The Honorable Mike Coffman, Representative
The Honorable Diana DeGette, Representative
The Honorable Doug Lamborn, Representative
The Honorable Ed Perlmutter, Representative
The Honorable Jared Polis, Representative
The Honorable Scott Tipton, Representative

The Honorable John C. Hickenlooper, Governor of Colorado