

Subcommittee on Energy and Mineral Resources  
Doug Lamborn, Chairman  
Hearing Memo

March 15, 2015

**To:** Natural Resource Committee Members

**From:** Energy and Mineral Resources Subcommittee Republican Staff  
Josh Hoffman, Fellow, & Kathy Benedetto, Legislative Staff (5-9297)

**Hearing:** Oversight hearing “*Effect of the President’s FY-2016 Budget and Legislative Proposals for the Office of Surface Mining on Private Sector Job Creation, Domestic Energy Production, State Programs and Deficit Reduction.*”

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The House Energy and Mineral Resources Subcommittee will hold a budget oversight hearing on the President’s Fiscal Year 2016 (FY16) budget request and other spending as it relates to the U.S. Office of Surface Mining Reclamation and Enforcement (OSMRE). The hearing will take place on **March 18, 2015, at 10:30 a.m. in 1334 Longworth**. The hearing will focus on agency priorities and accountability, appropriate use of taxpayer and ratepayer spending, as well as the future missions of OSMRE.

**Main Messages**

- The national debt currently exceeds ***\$18 trillion***, and the Obama Administration’s overall federal budget, which includes a doubling of OSMRE’s budget to \$1 billion, perpetuates the same old trend of rampant federal spending. OSMRE proposes no new solutions and instead is doubling down on past practices.
- The OSMRE’s budget request for FY16 increases federal taxes and fees and shifts federal spending in a manner that dis-incentivizes energy production on both federal and private lands. The proposal moves America further away from energy security and homeland security.
- The budget’s “Power + Plan” would seek to redirect hundreds of millions of dollars which have already been designated for the purpose of reclaiming historic mine lands that pose the most serious threat to human safety and health.
- The OSMRE wants to hire new staff and unilaterally ramp-up regulations, without the input from states that have primacy over the regulation of coal mining, for an already overburdened industry. The rewrites of the stream buffer zone rule have wasted millions of dollars and the FY 2016 budget requests more money allocated to this unproductive endeavor.

## Witnesses Invited

### **Joseph Pizarchik**

Director, Office of Surface Mining  
U.S. Department of the Interior

## Hearing Focus

### **Budget Requests**

The Surface Mining Control and Reclamation Act (SMCRA, P.L. 95-87, and spoken “Smack-Rah”) was the first federal environmental statute to regulate a specific industry as opposed to a specific type of pollution. The law created the Office of Surface Mining Reclamation and Enforcement (OSMRE) and its two major programs:

- Title IV of SMCRA created an **abandoned mine land (AML) reclamation program**, funded by fees that operators pay on each ton of coal produced, to reclaim land and water resources adversely affected by coal mines abandoned before August 3, 1977. Appropriation to this program supports the reclamation programs of states and OSMRE. The request for FY 2016 is \$32,074,000. A net increase of \$4,675,000 from the FY 2015 enacted level of funding.
- Title V of SMCRA created a **regulatory and technology program** to ensure that surface coal mining operations initiated or in existence after the effective date of the Act are conducted and reclaimed in an environmentally sound manner. Appropriations to this program finances regulatory functions administered either by the States or OSMRE. They request \$128,388,000 for FY 2016. This is a net increase of \$5,675,000 compared to the FY 2015 enacted level of funding.

OSMRE’s budget request for FY 2016 is \$160,462,000 in appropriations. The justification calls for an increase of \$15,801,000 and a decrease of \$5,451,000 for a net increase of \$10,350,000 over the FY 2015 enacted level of discretionary funding. A breakdown of OSMRE’s proposed FY 2016 budget can be seen in Table 1.

OSMRE is also requesting 23 new full-time equivalent positions.

OSMRE’s FY 2016 budget proposes \$65.5 million (40% of their discretionary funds) in Title V Grants to the States and Tribes. This is a reduction in \$5.1 million (7.4%) below the FY 2015 enacted level of funding. These funds are matched by States and Tribes, so a reduction in Federal funding amounts to an equal reduction on the State’s/Tribe’s contribution as well. The FY 2016 budget also proposes an increase of \$3.8M for Federal level program operations for the purpose of “improving implementation of existing laws”.<sup>1</sup>

The FY 2016 budget proposes to double mandatory funding from \$400 million enacted in 2015 to \$926 million in FY 2016.

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<sup>1</sup> [http://www.doi.gov/budget/appropriations/2016/upload/FY2016\\_OSMRE\\_Greenbook.pdf](http://www.doi.gov/budget/appropriations/2016/upload/FY2016_OSMRE_Greenbook.pdf) (pg. 62)

**Table 1: OSMRE FY2016 Budget Change Overview (In actual Dollars)**

<b>Requested Change</b>	<b>Program Description</b>	<b>2015 FTE/ Increase</b>	<b>Budget Ref.</b>
<b>Regulation and Technology</b>			
\$3,846,000	Improve Implementation of Laws and Support the States/Tribes: Would be used to improve implementation of laws, support to States/Tribes, processing program ammendments, and conduct assesment of hydrologic impacts.	12	pg. 62
\$2,500,000	GeoMine Project: For expansion of the Coal Mining Geographic Information System, an interactive geospatial data sharing system for State and Federal Agencies for coal mining activities and decisions.	2	pg. 84
\$1,199,000	Applied Science Projects: Funding to advance technologies related to coal mining by investing in science projects and studies.		pg. 84
\$1,000,000	Reforestation Initiative: Funds one Coordinator and 6 to 8 students to support the Appalachian Regional Reforestation Initiative.	3	pg. 85
\$750,000	Electronic Permitting: Supports information sharing between Federal and State parties for permitting review.		pg. 85
\$500,000	Cost Recovery Data Application: Would fund a new data management system to bring together various cost systems and automate the tracking of permit applications and related reviews/revisions for applications.		pg. 63
(\$3,129,000)	State and Tribal Grants: Would reduce funding to States by \$5.129M and increase funding to Tribes by \$2M. Funds are used to run State and Tribal regulatory programs and are matched by State/Tribe funding.		pg. 62
(\$1,860,000)	Offsetting Collections: In Fed. Program States/Tribal Lands OSMRE would increase collections from operators to offset its costs for reviewing, administering, and inforcing permits. (Rule to change fee structure is being finalized.)		pg. 63
\$290,000	Solicitor Support of AML Activites: Would support two FTEs in the Solicitor's Office for issues specific to coal mining. OSM has been supporting one FTE using carryover funds in past two years.		pg. 63
\$200,000	Program Monitoring: Would support review of: evaluation, and monitoring of civil penalty, bond forfeiture, settlement agreements, collections, and grants.		pg. 108
\$2,000	Indirect Cost Negotiations: Part of the DOI Working Capital Fund.		pg. 122
\$377,000	For Fixed Costs to cover increases in personnel costs, and decreases in workers compensation, GSA rentals, and DOI Working Capital Fund.		pg. 24
<b>\$5,675,000</b>	<b>Regulation and Technology Subtotal</b>	<b>345/17</b>	
<b>Abandoned Mine Reclamation</b>			
\$2,000,000	AML Reclamation for States/Communities: Support component of the Power+ Plan.	3	pg. 84
\$1,400,000	AML Program Evaluation: One manager and six to eight students would review AMLIS and evaluate AML program for alternatives for site identification, contracting, and oversight.	3	pg. 44
\$700,000	Applied Science Projects: Funding to advance technologies related to AML reclamation by investing in science projects and studies.		pg. 84
\$293,000	Federal Program Operations Monitoring: Would support review, evaluation, and monitoring of civil penalty, bond forfeiture, and abandoned mine lands projects.		pg. 44
\$150,000	Solicitor Support of AML Activites: Would support two FTEs in the Solicitor's Office for issues specific to coal mining. OSM has been supporting one FTE using carryover funds in past two years.		pg. 44
\$132,000	For Fixed Costs to cover increases in personnel costs, and decreases in workers compensation, GSA rentals, and DOI Working Capital Fund		pg. 25
<b>\$4,675,000</b>	<b>Abandoned Mine Reclamation Subtotal</b>	<b>143/6</b>	
<b>\$10,350,000</b>	<b>Total</b>	<b>488/23</b>	

## **Five Legislative Proposals affect Title IV programs.**

Reclamation of abandoned mines is conducted under the authority of Title IV of SMCRA using a fee levied on coal production. These funds are distributed to the States and Tribes through annual grants through mandatory appropriations. OSMRE proposes several changes which would affect this process. The proposed plan would reduce the normal disbursement by \$24.4M in FY 2016 by eliminating payments to Certified Programs and increase it by \$200M for non-certified states in FY 2016. These changes cannot occur without legislative action.

### **The President's Power + Plan**

The POWER + Plan, 'investing in communities impacted by energy development,' proposes to take \$1 billion from the 'remaining unappropriated balance' of OSM's AML Fund to facilitate the revitalization of economically depressed coalfield communities.<sup>2</sup> The unappropriated \$1 billion will most likely come from the reallocated prior balance money that is designated by law (2006 amendments to SMCRA) for payout to uncertified states starting in 2022.

AML sites are categorized by risk and severity. Priority 1: Protection of public health, safety, and property from Extreme Danger. Priority 2: Protection of public health, safety and property. Priority 3: Degraded land and water resources. AML funding is granted with preference to Priority 1 and 2 sites, and Priority 3 sites in uncertified states can only be reclaimed in conjunction with 1 or 2 sites. The Power + Plan upends the AML program laid out in SMCRA which is designed to address those abandoned mine sites that pose an imminent or serious threat to human health and safety.

It is uncertain how "sustainable revitalization" and "economic eligibility factors" will be added to existing site selection criteria.

### **Higher AML Fees**

OSMRE proposes legislation to modify the 2006 amendments to the Surface Mining Control and Reclamation Act, and raise the fee levied on coal production.

#### **Current Fee Structure Authorized through 2021<sup>3</sup>**

- Surface-mined coal (except lignite) –28 cents per ton
- Underground-mined coal (except lignite) –12 cents per ton
- Lignite – 8 cents per ton

#### **Proposed Fee Structure<sup>4</sup>**

- Surface-mined coal (except lignite) – 35 cents per ton
- Underground-mined coal (except lignite) – 15 cents per ton
- Lignite – 10 cents per ton

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<sup>2</sup> <http://www.doi.gov/budget/appropriations/2016/highlights/upload/DH029.pdf> (DH-35)

<sup>3</sup> <https://sscr.osmre.gov/public/Handbook/Documents/payerhandbook2013.htm>

<sup>4</sup> [http://www.doi.gov/budget/appropriations/2016/upload/FY2016\\_OSMRE\\_Greenbook.pdf](http://www.doi.gov/budget/appropriations/2016/upload/FY2016_OSMRE_Greenbook.pdf) (pg. 143)

## **Hardrock AML Program**

The budget also includes a proposed AML fee on all hardrock mines for the purpose of establishing an AML program for abandoned hardrock sites. It is estimated that this fee would levy \$1.8 billion for this purpose.<sup>5</sup>

## **Eliminate Funding to Certified States**

Ends permanent appropriations payments to certified states providing a savings of \$224 million over the next ten years (this would affect 4 states and 3 tribal Nations). Wyoming would be impacted the most by this proposal. Currently Wyoming coal operations contribute more than half of all the AML fees collected (54%). If payments to Wyoming and the other Certified states were eliminated it would be highly unlikely that the AML program would be reauthorized beyond FY-2021. This proposal may be at odds with the aforementioned Hardrock AML program as payments to Certified States are often used on such hardrock reclamation projects.

## **UMWA Health and Pension**

OSMRE proposes to distribute \$363 million in FY 2016 and \$3.9 billion over ten years to the United Mine Workers of America retiree health and pension plans. These programs cover more than 100,000 workers and are approaching insolvency.<sup>6</sup>

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<sup>5</sup> Statement of Sally Jewell, Secretary of the Interior Before the House Committee on Natural Resources on the 2016 President's Budget Request. March 5, 2015.

<sup>6</sup> Statement of Sally Jewell, Secretary of the Interior Before the House Committee on Natural Resources on the 2016 President's Budget Request. March 5, 2015.