

**Opening Statement of
Rep. Bill Johnson (OH-06)
Before the Subcommittee on Energy and Mineral Resources
Oversight Field Hearing on
*“Jobs at Risk: Community Impacts of the Obama Administration’s Effort to Rewrite the
Stream Buffer Zone Rule”*
Charleston, West Virginia
September 26, 2011**

Thank you, Mr. Chairman for holding this important hearing on the economic impact that the Department of Interior’s Office of Surface Mining, Reclamation re-write of the Stream Buffer Zone rule could have on local communities like Charleston and other mining towns across the country.

I represent Eastern and Southern Ohio and live just 90 minutes away from Charleston in Marietta, Ohio.

In the parts of eastern and southeastern Ohio that I represent, we have double-digit unemployment reaching as high as 12.7%. There are entire communities that depend largely on the coal industry – both direct and indirect jobs – that would be devastated by this proposed rules change.

According to the Obama Administration’s own analysis of the rule -- eliminate up to 7,000 direct coal jobs and tens of thousands of indirect jobs, cut coal mining production by 50%, and increase the cost of electricity for families and small businesses.

As most of you may know, OSM in December of 2008 issued a clarification of the stream buffer zone rules after a five-year process that included 40,000 public comments, two proposed rules, and 5,000 pages of environmental analysis from 5 different agencies. The final rule clarified and codified coal surface mining practices that had been in effect for over 30 years.

But on January 20, 2009, the Obama Administration decided to re-open the carefully crafted and properly vetted stream buffer zone rule. This proposed sweeping regulatory action would radically alter the definition of a stream as well as how the agency measures material damage outside of the permit area.

To date, the agency has provided no studies, data, or support to justify these radical changes. A judge later ruled that the Administration couldn’t reopen the rulemaking process without cause.

So what did the Administration do? They did what we have seen over and over again with settled rules the Administration does not like, they practically sent out invitations to environmental groups to sue the Department of Interior over the rule.

Not surprisingly they got their desired result and before long two environmental groups filed a lawsuit protesting the rule.

Then, instead of fighting the lawsuit in court, they entered in closed-door negotiations with the environmentalists and reached a settlement that would allow them to do what they wanted all along, to re-write the stream buffer zone rule.

I don't know about you, but this sounds like collusion to me.

And then in a slap to all taxpayers, the same environmental groups that sued the Department of Interior had their legal fees paid back by the taxpayer funded Judgment Fund.

I wish I could say that this is a special circumstance and that this doesn't happen often, but there are at least 15 instances of this so called practice of 'sue-and-settle' that this Administration has participated in to reopen rules they don't like. However, that is a problem and a discussion for a different day.

Let me get back to the Administration's economic analysis of the rewrite of the rule. Like I said before this analysis, complete by a leading environment consulting firm, showed that 7,000 direct and tens of thousands of direct jobs would be lost if the rule went forward as written.

This firm was paid millions of dollars to conduct the study. However, once the analysis leaked to the public, OSM fired the contractor, without getting any of the money back.

OSM claims that the contractor miscalculated the job loss, but it seems to me that they simply didn't like the results of the analysis and the press reports that came with it.

For these reasons, I offered an amendment to the first Continuing Resolution from this year that would have stopped OSM from going forward with a proposed revision to the 'Stream Buffer Zone' rule.

The amendment passed the House on a bipartisan vote of 239 – 186.

Unfortunately, the language did not make the final Continuing Resolution that eventually became law.

However, I have and will continue to fight to have this language included in any new spending bill passed by Congress.

The President as you all know has been touring the Midwest trying to promote what he calls a jobs bill. I find it ironic that his Administration has admitted that the rewrite of the Stream Buffer zone rule will cost thousands of direct and indirect jobs.

If the President was serious about job creation, he would direct OSM to stop going forward with a regulation that will result in thousands of hard-working Americans losing their jobs.

Thanks again for the Chairman for hosting this hearing and I look forward to hearing from our witnesses. I yield back the balance of my time.