

**Statement of Earl Ray Tomblin  
Governor of West Virginia**

**House Committee on Natural Resources:  
Subcommittee on Energy and Mineral Resources Field Hearing –**

*"Jobs at Risk: Community Impacts of the Obama Administration's Effort to Rewrite the Stream Buffer Zone Rule"*

September 26, 2011

Good afternoon. I am Governor Earl Ray Tomblin. I would like to thank you for the opportunity to testify today. I would also like to thank you for taking time to come to West Virginia and listen to the voices of people who, perhaps more than anyone, are threatened by the regulatory philosophy of the Environmental Protection Agency (EPA) and the federal Office of Surface Mining (OSM).

The EPA's anti-coal agenda is having an extraordinarily negative effect on the spirit and minds of every hard working West Virginian. And it should be setting off alarm bells for our Country.

Coal mining has always been a vital part of the West Virginia and National economy. For West Virginia, coal mining provides a significant number of jobs for our citizens and substantial tax revenue for the operation of our state and local governments. As a lifelong resident of the coal-producing area of Southern West Virginia, I have a deep, personal understanding of the importance of this industry to our State.

All told, more than 63,000 West Virginians work in jobs provided by the coal industry. That is 63,000 families. Think about it for a moment – that means approximately 250,000 people in a state with less than 2 million citizens are supported, in one way or another by the mining of coal.

There are millions of Americans who are unemployed. Millions more are struggling to make ends meet working two or three jobs. Millions more have lost their homes and have had to declare bankruptcy. American families are suffering. They don't want a handout. All they want is a job.

In contrast to most of America, we are fortunate in West Virginia. We are one of only a small handful of states that have been able to balance our budget and add to our Rainy Day Reserves. For example, I am proud to tell you that last year West Virginia had a surplus of approximately \$330 million. In large part, we owe our current financial health to "Coal." West Virginia has also been successful in attracting several new businesses to our state due to our aggressive team of economic development professionals. But we have a "crisis in waiting" with

the implementation of the rule before you today and other federal initiatives hanging in the balance.

Over the past three years, the EPA and other regulatory agencies have relentlessly pursued an ill-advised agenda, threatening one of our state's leading industries and tens of thousands of West Virginia jobs. I am deeply concerned about the direction federal agencies, including the EPA and the OSM, have recently taken in the regulation of the coal industry. Since the EPA, the Interior Department, and the Corps of Engineers signed a Memorandum of Understanding on June 11, 2009, these agencies have undertaken extraordinary efforts to seize regulatory authority that legitimately resides with the states and Congress. The EPA has attempted to re-write the Clean Water Act and regulations to incorporate new policy judgments, without the benefit of a new mandate from Congress or at least the transparency and opportunity for public involvement that would accompany formal rulemaking.

With the OSM Stream Protection Measures Rulemaking that is the subject of the subcommittee's current focus, I am concerned that OSM is also acting in contravention of its mandate from Congress. OSM's actions must be based on the federal Surface Mining Act. One of the principal purposes Congress established in the Surface Mining Act was to: "assure that the coal supply essential to the Nation's energy requirements and to its economic and social well-being is provided and strike a balance between protection of the environment and agricultural productivity and the Nation's need for coal as an essential source of energy."

It has been well publicized that the preferred alternative for the Stream Protection Measures rule OSM identified in the draft environmental impact statement is one that will cause drastic reductions in coal production in the Appalachian region.

As I understand it, OSM's draft environmental impact statement projects the following impacts from its proposed alternative:

- A decrease in surface mine coal production in the Appalachian Basin of approximately 30%;
- A loss of approximately 10,00 jobs in the Appalachian basin under the worst case scenario;
- An approximate 13.1% loss in severance tax; and
- An approximate 11.7% decrease in income taxes.

These impacts are entirely inconsistent with the mandate Congress gave OSM in the Surface Mining Act and unacceptable to any type of economic development and job creation for my home State. For the good of West Virginia and other coal producing states, I hope the Energy and Natural Resources Subcommittee will take appropriate action to force OSM to act within the limits of the authority Congress has given it.

West Virginia's coal miners, the bravest workers in world, should be confident about their future, enjoying the fruits of their hard work, building new homes, and saving for their

children's education and their own retirement. They should not be worrying about an overbearing federal bureaucracy that threatens the very backbone of their lives.

EPA's obstruction of mining permits and this rule from OSM threatens the very existence of the coal industry, in West Virginia and across the nation. These actions by the EPA and OSM are doubly problematic. Not only are they destroying coal mining and other good-paying industrial jobs, but they are also increasing the cost of electricity and every product made using electricity.

If enacted, OSM's proposed re-write of the Stream Buffer Zone rule will drastically reduce coal production in West Virginia and across the nation. It will apply new standards that have no basis in the law.

Congress must act to restrain the OSM and the EPA. You must restore balance to the relationship of the states and the federal government. You must demand an end to legislation by regulation and restore the proper Constitutional balance between the executive and legislative branches.

Tens of thousands of coal miners in West Virginia, Appalachia and across the nation need your help. While our national leaders speak of stimulating the economy, federal regulatory agencies are erecting substantial barriers to the continued existence of the mining industry at every turn.

While national leaders plead their case for more jobs, the agencies under their authority seem determined to drastically increase unemployment in our region.

We, here in the great state of West Virginia, do not seek subsidies or handouts. We just want to continue to work at the jobs we know and love. To continue doing what we've done for decades—providing our nation and the world with the energy and industrial fuel it needs to pull itself out of a global economic recession. Industries fueled by West Virginia coal provide the wages and taxes that support our states and communities. I call on you to restore balance in the federal government – to reign in the out-of-control EPA and OSM – and to give our great nation a chance to lead the world out of its current economic downturn. We are leading the nation here in West Virginia with the help of Coal – let us now take a great step forward and use our Coal to lead the world forward into a prosperous new era.

Thank you.