

Statement of
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Examining the Policies and Priorities of the Bureau of Ocean Energy Management, the Bureau of Safety and Environmental Enforcement, the U.S. Geological Survey, the Bureau of Land Management, and the Office of Surface Mining Reclamation and Enforcement.

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Introduction and Background

Chairman Lowenthal, Ranking Member Gosar, and Members of the Subcommittee, thank you for the invitation to testify on behalf of the Office of Surface Mining Reclamation and Enforcement (OSMRE) regarding OSMRE's policies and priorities.

Since 2017, OSMRE has renewed its commitment to strong relationships, good communication, and close collaboration with primacy states in order to achieve program results in the spirit of cooperative federalism. Ensuring OSMRE respects the role of states and tribes as partners supports the President's vision of ensuring a commonsense approach to regulating the environmentally responsible production of our vast domestic coal resources and is in keeping with the cooperative model established in the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

Through the Surface Mining Control and Reclamation Act (SMCRA) of 1977 (P.L. 95-87), Congress established OSMRE for two primary purposes:

- **First**, to ensure that the Nation's coal mines operate in a manner that protects citizens and the environment during mining, and to restore the land affected to a condition capable of supporting the uses which it was capable of supporting before any mining, or higher or better uses, following mining.
- **Second**, to implement an Abandoned Mine Land (AML) program to address the hazards and environmental impacts resulting from two centuries of coal mining activities that occurred before the law was passed in 1977.

SMCRA strikes a balance between the protection of the environment and the nation's need for energy. Nearly 43 years after the passage of SMCRA, coal remains an important fuel source for our country, generating over a quarter of our Nation's electricity. Conventional coal production will remain a significant contributor in America's energy mix and is expected to, for years to come. Protecting people, land, water, and the environment while promoting responsible coal mining are compatible goals. OSMRE is committed to carrying out the requirements of SMCRA in cooperation with states and tribes, ensuring that coal is produced in an environmentally responsible way. Currently, 24 States have approved regulatory programs in place pursuant to Title V of SMCRA. There are 25 states and 3 tribes that administer approved AML programs pursuant to Title IV of SMCRA. The major tasks for OSMRE are to ensure that states and tribes successfully address coal mining activities by ensuring they have high-quality regulatory and AML frameworks and to oversee implementation of their programs. Additionally, OSMRE supports the regulatory and reclamation programs of the states and tribes by providing technical assistance, funding, training, and technological tools.

Since SMCRA's enactment, OSMRE has collaborated with states and tribes to accomplish the following under the AML program:

- Closure of over 43,000 abandoned underground mine shafts and openings
- Elimination of more than 950 miles of dangerous highwalls
- Abatement of approximately 3,700 dangerous water bodies
- Elimination of more than 129,000 acres of dangerous spoils and embankments
- Restoration of 35,000 acres of streams and land, and
- Replacement of infrastructure for more than 53,000 polluted water supply systems.

During Fiscal Year (FY) 2019, OSMRE continued to promote utilization of the Forestry Reclamation Approach (FRA). A total number of 4,447,721 trees were planted during FY 2019, with 3,123,940, or 70 percent, utilizing FRA on 5,635 acres. OSMRE planted or assisted in planting nearly 320,000 trees spanning 380 acres in 2019, and we have planted 2.7 million trees over the past ten years. The Appalachian Region Reforestation Initiative (ARRI) partners organized 2,000 volunteers to plant approximately 200,000 trees on post-bond release mine sites across Appalachia.

Environmental Protection -Title V of SMCRA (Active Mining)

OSMRE supports the Department of the Interior's (DOI) Secretarial priorities to "sustainably develop our energy and natural resources" and to "strike a regulatory balance" through its environmental protection activities. OSMRE's statutory role is to promote and assist its partner states and tribes in establishing and maintaining a stable regulatory environment for coal mining that is consistent with SMCRA and administered primarily through state programs, or by OSMRE, as the regulatory authority.

Under SMCRA, most coal-producing states have primary responsibility, known as "primacy," to administer their regulatory programs in a way that protects people and the environment from the adverse effects of coal mining. States with primacy have demonstrated that their state regulatory programs satisfy the minimum statutory and regulatory Federal standards established under

SMCRA. OSMRE provides assistance to, and oversight of, primacy states to help ensure proper regulation of coal mining activities and the protection of people and the environment.

It is essential for coal to be responsibly mined and to ensure that the land is reclaimed in accordance with land use plans established during the permitting process consistent with the law. Each coal mine operation in the United States must be permitted and regulated under the provisions of SMCRA. Currently, there are more than 5,000 permits on active and inactive coal mining sites, which cover about 2.5 million acres nationwide. OSMRE develops annual performance agreements with each state, outlining the responsibilities and activities of both the state and OSMRE. Over the last four decades, OSMRE has worked collaboratively with state and tribal partners in developing and sharing evolving technological capabilities. We continue to do so in order to resolve issues and improve performance.

During FY 2019, OSMRE, consistent with existing regulations, completed significant review and revisions of two of its directives, Oversight of State and Tribal Regulatory Programs (REG-8) and Ten-Day Notices (INE-35). The result is more clarity and consistency in how oversight of state regulatory programs is performed, inspections are conducted, and citizen complaints are reviewed and processed.

As part of OSMRE's role in ensuring safe, secure, and reliable American energy, it has streamlined the National Environmental Protection Act (NEPA) review process for coal mine permits. Part of the streamlining has resulted in a revised *Handbook on Procedures for Implementing the National Environmental Policy Act* and updates to our NEPA policy and procedures in accordance with DOI guidance. In addition, OSMRE updated its NEPA courses ensuring its NEPA practitioners and state and tribal partners have the right training to develop and review NEPA documents that are in compliance with Executive Order 13807 and Secretary's Order 3355. The result, in part, has been the review of 16 coal mine plans between 2017 and 2019, and a reduction in review times by as much as 60 percent while assuring that the coal supply essential to the nation's energy supply is provided.

Training and Technological Advances

As part of OSMRE's mandate under SMCRA, the Bureau provides technical support, assistance, and training to state and tribal coal mining programs. OSMRE's Technology Development and Transfer Program covers a range of activities that promote and utilize technological innovations intended to better protect the environment during mining and in reclaiming active and abandoned mines lands.

OSMRE also balances coal production with environmental protection by providing resources for technical assistance and training through the National Technical Training Program (NTTP). The NTTP provides training on permit approvals, bond releases, reclamation, and enforcement within the technical disciplines of engineering, hydrology, blasting, agronomy, and botany. We also provide training on the use of emerging technologies, tools, and methodologies to better understand issues and resources related to coal mining on a landscape-level. The NTTP directly supports OSMRE's efforts under Title V related to environmental protection and under Title IV to ensure environmental restoration of abandoned mine lands. OSMRE has trained hundreds of

state and tribal professionals in a broad range of reclamation skills that include reestablishing wildlife habitat and protecting threatened or endangered species.

As an example of our efforts, OSMRE in FY 2019, provided technical support to the Utah Department of Natural Resources (DNR) through the use of its multispectral sensor to create 3D maps of previously mined areas and to monitor vegetative growth. Much of the monitoring by the DNR has built on the Light Detection and Ranging (LiDAR) data created in previous years by OSMRE's Geographic Information System (GIS) branch. Other efforts include conducting workshops addressing long-term water treatment liability concerns raised by states, in an effort to help them plan for future needs and challenges.

Additionally, OSMRE continues to meet the demand from states, tribes, public interest groups, and internal customers to provide technical support on various coal mining activities. Those efforts include the development of policy/guidance documents for technical issues, as well as, onsite review and guidance on the application of regulatory requirements to specific permits and mine site activities.

Environmental Restoration - Title IV (Abandoned Mine Land Reclamation)

OSMRE supports Interior's goal of *Providing Stewardship of Land, Surface Water, Stream, and Shorelines* under the mission area of "Conserving Our Land and Water" in DOI's *Strategic Plan for Fiscal Years 2018 – 2022*¹ through its environmental restoration activities.

SMCRA requires that all operators of coal mining operations pay an AML reclamation fee, based on tons of coal produced, into the Abandoned Mine Land Reclamation Fund (AML Fund). Fees from the AML Fund are used to reclaim lands mined for coal and left abandoned prior to August 3, 1977. OSMRE collects the AML fee, and annually distributes the fee receipts to states and tribes, based on a statutorily prescribed formula, for their use in reclamation activities. In February 2020, OSMRE announced the availability of more than \$170 million in FY 2020 grants to states and tribes for AML reclamation.

OSMRE improved land and water health in FY 2019 by reclaiming, or mitigating, the equivalent of 15,400 acres of land from the effects of pre-law mining. Of note, the Bureau used civil penalty reclamation funds to improve health and safety conditions near several Tennessee communities by restoring three sites that were abandoned and environmentally impacted.

Between 2002 and 2019, OSMRE provided more than \$2 million to West Virginia watershed organizations to clean up the Cheat River Watershed, which flows into the Cheat River. The River suffered blowouts of acid-filled water in 1994 and 1995, greatly affecting the ecosystem. Fish were killed up to 16 miles downstream. Today the Cheat River has vibrant aquatic life, viable fisheries, and has nationally known areas for river recreation. OSMRE's work with states and local organizations is making a positive difference in the lives of citizens in coal communities.

¹ *Strategic Plan for Fiscal Years 2018 – 2022*, <https://www.doi.gov/sites/doi.gov/files/uploads/fy2018-2022-strategic-plan.pdf>

Pursuant to the 2006 Amendments to Title IV of SMCRA, OSMRE also makes payments to three health plans for the United Mine Workers of America (UMWA). Recent legislation known as the Bipartisan American Miners Act of 2019, amended SMCRA to add additional beneficiaries to the current health plans and also provide funding for the 1974 UMWA Pension Plan. Accordingly, retroactive payments to the 1974 UMWA Pension Plan will be made for Fiscal Years 2017, 2018, and 2019, and thereafter. OSMRE will continue to collect reclamation fees from operators², allocate and distribute reclamation grant funds to states and tribes, and make the required payments to the UMWA health benefit plans.

Conclusion

In implementing its core mission, OSMRE works collaboratively with states and tribes in administering their regulatory and reclamation programs. OSMRE also recognizes the importance of working with industry, citizens, and other stakeholders, in implementing SMCRA. OSMRE supports effective partnerships by communicating, consulting, and coordinating with these constituent groups to achieve SMCRA's objectives. OSMRE also supports states and tribes through effective technical assistance, technology transfer, and training.

In cooperation with the 28 states and tribes that have reclamation programs, OSMRE continues to clean up land and waters impacted by past mining practices under the AML program and is considering options for when the AML fee authority expires after FY 2021. OSMRE's ongoing efforts to improve its partnerships with local and state governments, industry, non-profits, and watershed and citizens groups, ensure greater effectiveness in addressing a wide range of problems. These on-the-ground initiatives and partnerships help exemplify the spirit of true cooperative Federalism.

Thank you for the opportunity to present this testimony today, and I am happy to answer any questions you may have at this time.

² Section 1232 of SMCRA authorizes OSMRE to collect reclamation fees from operators of coal mining operations through September 30, 2021.