

U.S. House of Representatives
Committee on Natural Resources
Washington, DC 20515

May 19, 2023

Glenda H. Owens
Deputy Director
Office of Surface Mining Reclamation and Enforcement
U.S. Department of the Interior
1849 C Street, NW
Washington, DC 20240-0001

Dear Deputy Director Owens,

Thank you for appearing before the Subcommittee on Energy and Mineral Resources oversight hearing on Tuesday, May 16, 2023, to present testimony at the hearing entitled, *"Examining the President's FY 2024 Budget for the Bureau of Land Management and the Office of Surface Mining, Reclamation and Enforcement."*

Your testimony was extremely helpful in defining the Subcommittee's understanding of the issue and I appreciate the effort you took to prepare and present your testimony. While many questions were asked during the hearing, the Subcommittee has additional questions, attached, for your reply.

Please forward your responses to Lonnie Smith, Clerk of the Subcommittee on Energy and Mineral Resources, at lonnie.smith@mail.house.gov by June 2, 2023. Your assistance in meeting this deadline is requested, as failure to meet it will be noted in the printed transcript.

Once again, thank you for your extensive effort in making this a valuable hearing.

Sincerely,



Pete Stauber
Subcommittee on Energy and Mineral Resources
Chairman

Enclosure

Committee on Natural Resources
Subcommittee on Energy and Mineral Resources
Oversight Budget Hearing
1324 Longworth House Office Building
May 16, 2023
10:15 AM

“Examining the President’s FY 2024 Budget for the Bureau of Land Management and the Office of Surface Mining, Reclamation and Enforcement.”

Questions from Chairman Westerman for Ms. Glenda H. Owens, Deputy Director, Office of Surface Mining Reclamation and Enforcement

1. The Infrastructure Investment and Jobs Act (IIJA) provided \$11.3 billion in abandoned mine land (AML) funding to reclaim abandoned coal mines, in addition to the fee-based grant distributions to state and tribes from the AML Fund. This was intended to simply add new funding to cleanup efforts, *not* overhaul a program that has been working well since the 1970s. However, I understand that the states are facing many new so-called “recommendations” in order to receive this new funding - everything from application formatting and project lists to the inclusion of the “Justice40” initiative.
 - a. Why is DOI adding nebulous new “strings” to the funds from IIJA instead of allowing the program to simply function as it always has?
2. On April 25th, OSMRE issued a proposed Ten-Day Notice rule, which modifies existing regulations to address potential violations under the Surface Mining Control and Reclamation Act, as well as how citizens’ complaints are handled and other matters. I have concerns that this rule may conflict with state primacy as explicitly addressed in the Surface Mining Control and Reclamation Act (SMCRA).
 - a. Did OSMRE consult with states that have primacy under SMCRA or the Interstate Mining Compact Commission prior to these revisions?
 - b. The proposed rule states that there are vast problems with the 2020 Ten-Day notice regulations, but does not provide explicit examples. Please provide the data being relied upon for the last three years of Ten-Day Notice requests to OSMRE, that show there is a problem with the 2020 Ten-Day Notice regulations.
3. OSMRE is using thresholds about projected coal production at a given mine site to determine whether a federal mine plan requires an EA or EIS. However, OSMRE has not disclosed what these threshold limits are, how they were established, or how they are applied in determining the level of NEPA review. Will you commit to providing the states and public information about how these thresholds are made, and how they are used in review?

4. OSMRE is applying downstream effects in federal mine plan NEPA reviews. This is redundant, as these potential impacts and effects are already addressed by BLM during their NEPA analysis. Why is OSMRE duplicating the work of another federal agency related to the same activity?
5. On April 26th, the Interstate Mining Compact Commission sent you a letter regarding the serious concerns states have about the anticipated dam safety rule, requiring Emergency Action Plans for dams despite nearly every state already requiring them. Emergency preparedness has always been under the primary authority of the states throughout the life of the program.
 - a. Why should this rulemaking extend to dams in all states, including those with primacy under SMCRA and their own Emergency Action Plans in place, instead of being limited to only those dams within OSMRE's direct regulatory purview?