

**RESPONSE TO QUESTIONS FOR THE RECORD: “EXAMINING THE BIDEN
ADMINISTRATIONS’S ABANDOMED MINE LANDS AND ACTIVE MINING PROGRAMS**

Chairman Stauber, Ranking Member Ocasio-Cortez and members of the committee. Thank you for the opportunity to appear before you and participate in the oversight hearing titled “*Examining the Biden Administration’s Abandon Mine Lands and Active Mining Programs*” on November 14, 2023.

Question of Ranking Member Ocasio-Cortez:

1. Congress made its intention clear in the Infrastructure Investments and Jobs Act that the abandoned coal mine land reclamation funding should create good paying jobs for displaced coal workers and incentivize union labor. (30 USC 123 la (f): "priority may also be given to reclamation projects described in subsection b(1) that provide employment for current and former employees of the coal industry;" 30 USC 123 la(b)(3): "In applying for grants under paragraph (1), States and Indian Tribes may aggregate bids into larger statewide or regional contracts;" and 42 USC 18851: "all laborers and mechanics employed[...] on a project assisted in whole or in part by funding made available under this division [...] shall be paid wages at rates not less than those prevailing on similar projects in the locality".) How are you implementing the employment priorities included in the law, and are you in touch with the United Mine Workers of America and the AFL-CIO on how best to do so?

The Ohio AML program is required to operate under current state procurement laws and procedures and establishing new employment priorities for the AML program would require legislative changes to state law. The Ohio Revised Code provides that labor requirements are not to be imposed on contractors and subcontractors on public improvement contracts. Specifically, it provides that a public authority on a construction project for a public improvement cannot require a contractor or subcontractor to enter into agreements with a labor organization, require contractors to become members of a labor organization, or pay dues to a labor organization.

Currently no changes to this procurement code are in process in the Ohio legislature. However as provided for in the Ohio Revised Code, the Chief of the Division of Mineral Resources is contracting with coal operators directly without advertising for bids to perform AML reclamation that is adjacent to an active permit. In Ohio, many of the remaining coal surface mining operations are in areas with extensive pre-law mining. Utilizing this provision in state law helps meet the intended goal of the IJA of providing employment to current and former coal industry employees and businesses.

Ohio is implementing federal prevailing wage for all AML projects. This is being done for consistency across AML projects, whether federal or state funded, to ensure fair and consistent wage rates. Based off the recent increase in competitive bids for AML projects we believe the inclusion of federal prevailing wage rates has led to heightened interest by contractors - including contractors who utilize unionized labor. These wage rates are critical going forward to have a ready and available workforce to implement AML projects in Ohio.

Several meetings and communication have taken place about AML project opportunities and program requirements with stakeholders, including the AFL-CIO, United Mine Workers of America, NGO's, and other contracting and labor organizations operating in the state. A legacy pollution roundtable, led by the Office of Surface Mining Reclamation and Enforcement (OSMRE) and the Ohio Department of Natural Resources Divisions of Mineral Resources Management and Oil and Gas Resources Management was held in Columbus, Ohio in the spring of 2023 to discuss AML and Orphan Well programs and opportunities in the state. This meeting included the AFL-CIO, UMWA, Laborers International Union NA, NGO's, and other state agencies. A follow up site meeting, with many of the same organizations, was held in November of 2023 at a training facility in Hocking County, Ohio. A coalition of NGO's and labor organizations provided labor recommendations to ODNR for both the AML and Orphan Well programs and those are being reviewed.

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