

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. I appreciate the opportunity to share my perspective and participate in the oversight hearing titled “*Examining the Biden Administration’s Abandoned Mine Lands and Active Mining Programs*” on November 14, 2023. The committee’s interest in the states concerns is greatly appreciated.

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 1231a (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 1231a(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 Alabama AML program is implementing the Infrastructure Investment and Jobs Act funding to meet Congress’ intentions to the best of our ability. The benefit to the communities and citizens of Alabama is inherent in the work itself by abating the extremely dangerous safety features associated with abandoned mine lands. There are two accepted methods of procurement for AML work that must be adhered to under the Alabama Procurement Law by the authority of the State’s Chief Procurement Officer: 1) Request for Bid (RFB), or Invitation to Bid (ITB) for supplies and non-professional services (including AML construction/reclamation work) which awards work to the “lowest responsive and responsible bidder”. 2) Request for Proposals (RFP), and/or Request for Qualifications (RFQ) for professional services which awards work to the offeror “whose proposal conforms to the solicitation” and is “the most advantageous to the state taking into consideration price and evaluation factors”. Neither mechanism of procurement currently allows for “preference” to be given to displaced coal workers or unionized labor. Despite repeated requests to OSMRE no definition has been provided to the states for who qualifies as “displaced coal worker” which makes this priority difficult to implement in theory or practice. However, we appreciate the intent. Alabama, like much of the country, is facing significant work-force challenges in the post-COVID era and there are numerous good paying jobs across the state available to individuals’ seeking employment. We have an established practice of bid aggregation into single contracts when advantageous to the state to do so. We also require any contractors performing work on behalf of the AML program to meet the requirements of the Davis Bacon Act and provide us with documentation of certified payroll ensuring that prevailing wages or above are paid.