

President Joseph R. Biden  
The White House  
1600 Pennsylvania Avenue, N.W.  
Washington, DC 20500

December 13, 2021

**Communities Need a Strong OSMRE Director During this Time of Unprecedented Mine Abandonments And Other Programmatic Impediments To Achieving the Goals of the 1977 Act**

Dear President Biden-

We are a coalition of local, regional, and national organizations—including tribal and indigenous communities—representing thousands of members who live in communities directly impacted by coal mining. We are writing to ask that you prioritize the appointment of a permanent director for the Office of Surface Mining Reclamation and Enforcement (OSMRE). As the coal mining industry contracts, coal operators are increasingly abandoning unreclaimed mine sites, leaving coalfield communities to contend with polluted streams, damaged aquifers, and heightened risks of landslides and flooding. We need a Senate-confirmed, permanent director of OSMRE capable of transitioning the agency to confront these unprecedented challenges while giving full effect to Congress' mandate in the Surface Mining Control and Reclamation Act of 1977 (SMCRA) that every coal mine be fully reclaimed.

As demand for coal continues to decrease, mine operators are entering bankruptcy and abandoning mines at historic rates. These abandonments threaten to overwhelm the entire reclamation bonding system. The lack of adequate bonding has led state regulators to back off of enforcement and otherwise turn a blind eye to problematic industry practices. Rather than take action to identify and address the mines most likely to be abandoned, regulators misuse provisions intended to account for temporary changes in market conditions in a way that allows functionally-abandoned sites to deteriorate further. OSMRE oversight is critically needed to address these issues and uphold the core purpose of SMCRA by ensuring that every mine site is fully reclaimed.

Although we welcome the inclusion of \$11.3 billion for the Abandoned Mine Lands Fund in the Infrastructure Bill, such a substantial investment must be carefully administered. Further, such funds cannot be used to reclaim those post-law mine sites that are now being abandoned. States will need support from a strong OSMRE that understands the needs of communities. OSMRE must have a director who can ensure that states are properly allocating and expending those AML funds.

Moreover, the Trump Administration adopted a number of formal and informal policies that continue to hinder OSMRE's ability to give full effect to Congress' mandates. Most egregiously, the Trump Administration pushed through the end-of-term Ten Day Notice Rule without allowing adequate public participation and without complying with the National

Environmental Policy Act (NEPA). The final Ten Day Notice Rule, a challenge to which is pending in federal court, upends decades of OSMRE practice and significantly hinders the public's ability to secure effective oversight of SMCRA violations. The OSMRE needs a director who can objectively review these policies and bring the agency back into alignment with the requirements of SMCRA.

Our communities deserve leadership from your Administration on these important issues. We need an OSMRE director who recognizes the challenges—and opportunities—in this moment of significant change and upheaval within the coal mining industry.

Sincerely,

Sierra Club

Alliance for Appalachia

Appalachian Citizens' Law Center

Appalachian Voices

Center for Coalfield Justice

Citizens Against Longwall Mining

Citizens Coal Council

Clean Energy Action

Clean Water Expected in East Tennessee (CWEET)

Clearfork Community Institute

Coal River Mountain Watch

Kentuckians For The Commonwealth

Kentucky Conservation Committee

Kentucky Resources Council

Kentucky Waterways Alliance

Northern Plains Resource Council

Ben Nuvamsa, former Chairman of the Hopi Tribe

Powder River Basin Resource Council

Southern Connected Communities Project

Statewide Organizing for Community eMpowerment (SOCM)

Tennessee Citizens for Wilderness Planning

Tó Nizhóní Ání

Valley Watch

West Virginia Citizen Action

West Virginia Highlands Conservancy

West Virginia Rivers Coalition

Western Organization of Resource Councils

Woodland Community Land Trust

Cc:

Ron Klain, White House Chief of Staff

Secretary Deb Haaland, Secretary of the Department of Interior

Maggie Thompson, Department of Interior White House Liaison