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

December 13, 2021

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