

United States Senate

WASHINGTON, DC 20510

March 14, 2011

Chairman Jeff Bingaman
Energy and Natural Resources Committee
304 Dirksen Senate Building
Washington, DC 20510

Ranking Member Lisa Murkowski
Energy and Natural Resources Committee
304 Dirksen Senate Building
Washington, DC 20510

Dear Chairman Bingaman and Ranking Member Murkowski:

We write to request an oversight hearing to examine the procedural and substantive components of the Office of Surface Mining's (OSM) proposed stream protection regulations for coal operations. As you are aware, the Administration's recent draft Economic Impact Statement (EIS) projects these regulations will result in a massive loss of jobs in coal mining communities across the country. In the wake of these alarming figures, a senior Administration official recently made public statements threatening to fire the contractor responsible for providing this analysis.

Independent, scientific analysis of proposed regulations must remain objective and free from political pressure. At a hearing on March 7, 2010, Interior Department Deputy Secretary David Hayes said: "We are actually so unhappy with their work that we are issuing a demand that they provide us with a new version of work."

It is not surprising that the Administration is unhappy with the economic analysis, since it estimates that between 2,100 and 29,000 coal jobs will be lost because of the proposed regulations. The Department, however, cannot discard the economic analysis simply because it dislikes the results. Doing so would both undercut the regulatory process and ignore the harsh economic realities that irresponsible stream protection rules would have throughout our nation.

Concerns about the procedures OSM is using to draft new stream buffer rules are not new. A federal court has already rebuked OSM for failing to follow the proper procedures for changing the regulations. Further, the heads of eight different state regulatory agencies cooperators in the rulemaking process expressed strong concerns about how rushed the process has been. In a letter sent November 23, 2010, the states called sections of the draft EIS "nonsensical and difficult to follow" and that OSM's "constrained timeframes" have limited their ability "to provide meaningful comments."

We believe the Energy and Natural Resources Committee has a responsibility to investigate the justification for a new analysis, and to determine whether a new analysis is reflective of the previous quality of work on the EIS, or if it is an attempt to receive a different answer about potential job losses. We respectfully request that the Committee hold an oversight hearing on stream protection rules as soon as possible.

Sincerely,


Senator John Barrasso, M.D.


Senator Joe Manchin


Senator Rand Paul, M.D.