

WRITTEN TESTIMONY OF

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**BEFORE THE NATURAL RESOURCES COMMITTEE
SUBCOMMITTEE ON ENERGY AND MINERAL RESOURCES**

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Good morning, Chairman Stauber, Ranking Member Ocasio-Cortez and members of the committee. I am honored to appear before you today.

My name is Benny McCament and I serve as the Chief of Ohio Department of Natural Resource's Division of Mineral Resources Management. My division includes both Ohio's abandoned mine lands (AML) program and the coal regulatory program under the Surface Mining Control and Reclamation Act (SMCRA). I am also the immediate past President of the National Association of Abandoned Mine Land Programs, which represents 27 states and tribes.

The state of Ohio appreciates Congress' continuing support for state SMCRA programs, especially the investment in the AML program. My statement today will highlight the successes of Ohio's SMCRA programs as well as challenges we face.

The funding Congress provided via the IIJA has enhanced coal AML work in Ohio. In addition, the STREAM Act, which Governor DeWine supported, was a very helpful clarification to the IIJA - ensuring that we can focus adequate funding and attention on restoring water resources impaired by historic coal mining in our state.

Ohio has operated the SMCRA program successfully for over 40 years, but the nearly \$700 million over 15 years we will receive via IJJA is a four to five-fold increase in historical funding levels. This comes with much responsibility to ensure the funding is used for eliminating as many safety and environmental hazards as efficiently as possible, both for states and the Office of Surface Mining and Reclamation Enforcement. (OSMRE).

I would now like to highlight some challenges caused by new administrative processes and decisions at OSMRE that could be problematic.

Abandoned Mine Lands

OSMRE has determined that all mandatory annual AML grants must be applied for, tracked, and reported on separately. States have a long history of having adequate financial controls in place and have asked OSMRE to combine and simplify IJJA and fee-based AML grants, allowing states to spend less time on administrative tracking and reporting for multiple grants that cover essentially the same activities. OSMRE is also requiring an update of approved reclamation plans. This update should be a lower priority than ramping up reclamation work, especially considering Ohio has a reclamation plan update that has been pending at OSMRE for over 5 years. Lastly, the continued funding support for the Abandoned Mine Lands Economic Revitalization (AMLER) Program is greatly appreciated and the outcomes of creating new job opportunities through this program are needed in Ohio. Even with Ohio's successes, this program could also be streamlined by removing the preliminary vetting step for projects which creates unnecessary delays. Providing permanent program guidelines for states and our grant recipients would be more effective.

Coal Regulatory Program

SMCRA is founded on the state primacy model where states are given exclusive regulatory authority over the environmental impacts of coal mining in their jurisdiction. Maintaining the state's ability to do their job under SMCRA is critical to the success of coal mining regulation.

Currently, there are several areas of concern with SMCRA: (1) OSMRE has two pending rulemakings that are problematic; and (2) OSMRE has a significant backlog of state program amendments.

1. Rulemakings:
 - a. A few years ago, OSMRE updated the Ten Day Notice rule which created greater cooperation between OSMRE and states on responding to and investigating citizen complaints - this rule has

worked well. OSMRE's current proposed change to the Ten Day Notice rule is a reversal of the functioning rule change. The new proposed rule reverses cooperation and creates uncertainty and federal overreach.

b. OSMRE has also notified states that it plans to conduct rule making regarding Dam Safety. The Mine Safety Health Administration currently regulates dams on mining sites. In Ohio, the Department of Natural Resources manages a dam safety program for all dams after a mining permit is released. The additional regulation proposed by OSMRE would be duplicative.

2. Plan Amendments: We appreciate that OSMRE is currently prioritizing and ramping up efforts to streamline the review of state program amendments. We strongly encourage OSMRE to utilize its resources regarding this effort. For example, Ohio has six pending program amendments, with at least one that dates to 2015, that need approval in order to change state laws/rules to be in compliance with federal requirements.

In conclusion, communication and collaboration between OSMRE and its state and tribal partners is critical to effectively implement SMCRA programs. Citizens in coal regions are counting on all of us to solve these problems quickly and to reclaim mining sites and create jobs at the same time.

Mr. Chairman, thank you again for the opportunity to testify and I look forward to answering questions from the committee.