

# United States Senate

WASHINGTON, DC 20510

June 29, 2016

The Honorable Joseph G. Pizarchik  
Director  
Office of Surface Mining Reclamation and Enforcement  
1951 Constitution Avenue, NW  
Washington, DC 20240

Dear Director Pizarchik:

In light of the Office of Surface Mining Reclamation and Enforcement's (OSMRE) repeated failures to follow a clear directive from Congress related to OSMRE's proposed "Stream Protection Rule," I am writing to request that your agency comply with the report language accompanying the Consolidated Appropriations Act of 2016 (Public Law 114-113) and fully engage with the State of Texas prior to finalizing the rule.

The language that was part of the appropriations bill directs OSMRE to "provide the States with all technical reports, data, analyses, comments received, and drafts relative to the environmental reviews, draft and final environmental impact statements" related to OSMRE's proposed Stream Protection Rule, including all deliberative material used to develop the rule. Additionally, it requires OSMRE to meet with any State, at the request of the State, during the process and to "reengage State partners in a meaningful manner before finalizing the . . . rule."

On now three separate occasions, the Railroad Commission of Texas (Commission) has requested that OSMRE comply with this directive in Federal law by providing it with *all* of the documentation referenced above. Unfortunately, your agency has failed to fully and adequately respond to the Commission's request.

A recent study indicates that the Stream Protection Rule could result in the loss of anywhere between 40,000 and 77,500 direct mining jobs and \$3.1 billion to \$6.4 billion in federal and state tax revenue annually. The Congressional Budget Office (CBO) even estimates that "if the proposed rule is implemented it will increase operating costs for the coal industry and reduce coal production." Due to the potential for this rule to have a negative economic impact on the U.S. economy as a whole and local communities throughout the country, it is imperative that OSMRE consider every state's concerns before finalizing the rule.

As a result, I respectfully request that OSMRE fully comply with current law by providing Texas the documentation and information required in the report language and to meaningfully work with Texas and the other states prior to finalizing the rule, including scheduling individual meetings, upon request by the Commission, between Commission staff and members of your technical staff to discuss issues with the proposed rule as it specifically relates to coal mining in Texas. To that end, it is necessary for OSMRE (1) to delay publication of the final Stream Protection Rule until all states have had the opportunity to review the material and to provide additional comments on the proposed rule, and (2) to reopen the public comment period for the proposed rule and its associated draft and final environmental impact statements and regulatory impact analyses.

If you believe that OSMRE has fully complied with the Commission's request in accordance with Public Law 114-113, please provide me a full list of the documents provided to the Commission, including the sent date and description of the document, as well as a complete list of the names of every official who authorized, sent, handled or drafted the correspondence with the Commission, and a list of the date(s) that OSMRE has consulted with the Commission, either via phone or in-person, no later than July 15, 2016.

Thank you for your prompt attention to this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Ted Cruz", is positioned above a horizontal line.

Ted Cruz  
United States Senator