

Name: Stephanie R. Timmermeyer
Title: Cabinet Secretary
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Mr. Chairman and members of the committee,

Thank you for the opportunity to speak on behalf of West Virginia to commemorate the 30th anniversary of the Surface Mining Control and Reclamation Act of 1977. The measure has been hugely important to the Mountain State as coal mining practices have evolved over the past 30 years. Natural resource extraction and regulation has quite a history in West Virginia.

In 1939, West Virginia was the first state in the nation to enact environmental laws to regulate coal mining. The legislation required that companies obtain a permit, post a bond and reclaim the land. The environmental protection movement for mineral extraction was born.

Over the next few decades, coal mining became more prevalent, and the boom of the northern underground coal mines prompted companies to explore the southern coalfields and burrow underground for the resource that would propel the United States into the forefront of industrial production and electricity supply.

An incredible amount of wealth was leaving West Virginia. Mining companies not only took the valuable coal out of the state, but also destroyed the heritage and fabric of communities. They often left nothing behind but unsafe sites, open mine portals and dead streams. Despite early legislation, little was being done to stem the tide of destruction from mining. During World War II, the demand for energy peaked, and millions of tons of coal were mined quickly. Before long, more than 102,000 acres were disturbed with no reclamation.

That prompted West Virginia legislators to again take action to strengthen the surface mining law. In 1959, lawmakers required vegetation on disturbed areas, though the law was fairly weak, and it did little to fix the reclamation problem.

A new surface mining law was enacted in 1967 that gave what we now call the West Virginia Department of Environmental Protection the responsibility for all phases of mining. The 1967 act was considered to be one of the toughest surface mining laws in the U.S. The act required prospecting permits, surface mining permit fees, bonds for disturbed acres, basic preplanning responsibilities, and monthly inspections. All of these

requirements were precursors to our modern-day rules and regulations governing mining operations, and, I might say, a foreshadowing of what was to come in 1977.

In that decade to come, West Virginia was in the limelight for a couple of reasons. In 1972, a coal dam burst on Buffalo Creek, killing 125 people and wreaking havoc on families and communities in the wake of the rushing water. That incident put a renewed focus on the mining industry through the creation of dam safety laws.

Momentum continued to build, and an energetic freshman congressman from West Virginia helped craft and build support for landmark legislation that would require responsible mining and reclamation across the country. The birth of SMCRA, thanks to Congressman Rahall and his colleagues, has leveled the playing field for mining companies through federal oversight and it empowered states to protect human health and the environment. It took incredible leadership for Congressman Rahall to take such a bold step as part of a major coal state's delegation, and it thrust West Virginia into the forefront again as a leader in environmental protection issues.

No law has had a bigger impact on mining in West Virginia than SMCRA. Above all, SMCRA greatly reduced mining's impacts through minimum requirements and an emphasis on reclamation. No longer could coal companies take the valuable coal and leave behind a legacy of acid mine drainage and dangerous land formations. Although there are still impacts from mining, the practice is now carefully planned and permitted with extensive scientific, regulatory and public input.

To illustrate that point, I have brought, on my travels here, two permits. This permit was issued in 1977. This permit was signed yesterday. Both allow for surface mining on similar acreage. This permit basically outlines the boundaries of the mining area and the number of acres to be mined. This one is far more comprehensive. It includes a surface water runoff analysis, a community impact statement, baseline water quality data, a stability analysis, and a sediment control plan, and many other additions.

Clearly, SMCRA and our correlating state regulations have come a long way since 1977. Our agency works every day to find new ways to reduce mining's impact on the environment and keep folks in business. Both mining and environmental protection are big business in our state.

The DEP combines the administration of the SMCRA and Clean Water Act 401 and 402 programs to regulate active mining. The integrated program for coal mining in West Virginia processed permitting transactions and inspection/enforcement activities at over 1,900 permitted sites that together produced 159 million tons of coal in 2006. That resource generated over 90% of the state's electricity consumption and helped fuel a state economy that supplies products and services essential to the welfare of the nation.

Through SMCRA and a solid state mining regulatory program, coal operators are far more responsible in mining activities. Planned land reclamation has become a given in coal mining today. Industry has progressed from claiming that SMCRA and any changes

to it would put it out of business to vying for reclamation awards and showcasing successful reclamation sites.

Too often that wasn't the case in years past. West Virginia is still riddled with pre-law mine sites that continue to pollute our streams and pose safety hazards to residents. Thanks to SMCRA, West Virginia has a means to tackle the problem. The Abandoned Mine Land Fund created by SMCRA uses industry dollars to fund mine cleanup projects from old rogue operations.

In West Virginia, the Abandoned Mine Land program has eliminated and reclaimed tens of thousands of acres of abandoned mine sites by abating hazards and restoring land and water to beneficial uses. Many miles of streams, such as the Blackwater and Middle Fork rivers have been restored to viable fisheries. Public water systems have been installed where past mining destroyed potable water supplies. The recent reauthorization of the program, thanks in part to the leadership of West Virginia's congressional delegation, will provide the opportunity to accelerate the program. Earlier this year, Governor Manchin announced that \$58 million of the nearly \$1 billion West Virginia will receive will go to creating valuable water infrastructure to the old mining communities that need it most.

The West Virginia AML program has received in excess of \$617 million over the past 30 years to achieve the mission of the program. In the past 30 years, DEP eliminated 49 miles of highwalls, sealed 2,688 portals, abated 439 acres of residential and urban subsidence areas, and eliminated 739 impoundments, all of which posed significant public health and safety hazards. Through the AML program, there are over 12,215 West Virginia families, churches, schools, and businesses that have clean, safe, and reliable drinking water. Since 1988, more than 779 emergency projects have been completed, in some cases saving the lives of people at risk of an impending impoundment failure or landslide. Despite all of our work, there is much more to do. West Virginia has documented over \$1.8 billion in reclamation needs in the Office of Surface Mining's inventory.

The West Virginia Special Reclamation Fund to reclaim coal mined lands abandoned after 1977 is another example of how SMCRA has led the regulated community to take responsibility for environmental legacy costs. The fund, in part, is based on the early landmark West Virginia statute that required funds be paid by the operator to address land reclamation and water pollution. The program is funded by forfeited bonds, civil penalties and a reclamation tax on mined coal. Since its inception, DEP's Office of Special Reclamation has reclaimed 1,592 bond forfeited coal-mining permits totaling 26,691 acres at a cost of over \$101 million. In addition, DEP has constructed and maintains 105 water treatment sites at a capital cost of \$17 million, and an additional \$26 million in operating and maintenance costs

The permitting process under SMCRA has afforded opportunities to avoid and minimize potential problems, thus providing some direction for mining operations. For example, improvements in the prediction and prevention for modeling acid mine drainage has

contributed to the fact that since 1999, only 3.2% of permits have developed acid mine drainage. This represents a continual downward trend since the passage of SMCRA.

The realization of ownership and control requirements through SMCRA and the corresponding state programs and maintenance of nationwide databases like the Applicant Violator System imposed accountability and made possible the removal and blocking of irresponsible operators. A challenge is maintaining the level of accountability requirements in light of the changes in ownership structures of coal companies, especially the multitude of ownership forms (e.g. investment groups, limited liability corporations) and bankruptcy law protections used by some coal operators.

SMCRA has been effective in preventing and remediating offsite impacts that can occur with coal mining. In West Virginia, water replacement is now the rule rather than the exception. Also, a blasting program insisted upon in SMCRA provides neighbors of mining operations with protections in advance of blasting and avenues for redress in the event of damages.

The industry, government and citizens have become more sophisticated since 1977. Decisions on mining matters are far more deliberative and comprehensive. Now, more than ever before, permit decisions are inclusive of public comment and participation. The DEP prides itself in its progressive approach to public participation. Individuals can subscribe to an online e-mail notification system to see public notices for any county in the state. Citizens are in our DEP offices every day reviewing permit files and arming themselves with information to make informed comments on draft permits or to provide testimony in mining permit appeals. Public hearings are commonplace, and the agency attempts to make itself available for question and answer sessions and citizen inspections. Without the groundwork of SMCRA, this may not have been possible.

The permitting process, in fact, has become a planning tool for companies and communities. The SMCRA requirement to reclaim mined lands and return them to uses equal or better than those which existed before mining has become an important economic development component for West Virginia.

In 2006, approximately 75% of all surface mine applications approved in West Virginia set forth forestland as the post mining land use. This equates to approximately 8,000 acres. Over the past three years, 6 million seedlings were planted on mined lands. This sets the stage for a future viable forestry industry in the years to come.

Due in part to the steep topography of West Virginia, many new commercial developments are on previously mined and reclaimed land. Particularly in the southern coalfields, shopping malls, schools, wood products plants, golf courses, and athletic complexes have sprung up on old mine sites. One of the biggest up and coming projects in the state is the King Coal Highway, constructed as a post mining land use. The highway will enable residents of once isolated communities to travel farther in shorter time frames. The highway will spur commercial development along the route, providing the critical travel infrastructure West Virginia needs. It is by no means the Washington,

D.C. beltway, but it sure is a far cry from the twisting, winding, narrow roads West Virginians are used to.

West Virginia Governor Joe Manchin realizes the importance of post mining land use requirements and the development opportunities they present. An executive order is being drafted that sets in motion a framework for future industrial, commercial and agricultural projects that will tap into the know-how the state's economic development and science leaders. Coal won't be here forever, so West Virginia is looking to diversify its economic development and growth options so that it can keep its residents employed and living in the Mountain State. I hope that SMCRA will continue to evolve in order to take into consideration states' infrastructure, environmental protection, and development needs on mined lands that might otherwise lie dormant.

It has taken decades of science, expertise and diplomacy to get where we are today in mining and regulating coal. The changes have been drastic and have led to a dramatic improvement from the old days of digging coal and leaving behind a legacy of problems.

Instead of a legacy of problems, today's legacy is this—thanks to SMCRA, mining companies are held to a high standard. They have recognized that there is an inherent wealth in a community's heritage and well being. Mining is also a part of the state's social fabric, and it provides an integral part of the nation's economy and West Virginia's well being and culture. With forward-thinking legislators like Congressman Rahall and our Governor, Joe Manchin, West Virginia will continue to lead in mining and reclamation regulation while seeking out new ways to provide energy and fuel the nation's economy.

Thank you for providing this opportunity to speak. It is truly an honor to be able to provide West Virginia's perspective on such important legislation.