

**Chairman Manchin's Opening Remarks During a Full Committee
Hearing to Examine the Implementation of Federal Coal Mine Land
Reclamation and Abandoned Coal Mine Land Economic
Revitalization Programs**

- The Committee will come to order.
- For generations, coal communities across our nation have made the sacrifices and done the heaving lifting to turn our country into a global energy leader.
- Many of these communities still bear the scars of those sacrifices in the form of abandoned mine lands as a result of decades of unregulated surface mining that occurred prior to the passage of the Surface Mining Control and Reclamation Act of 1977, known as SMCRA.
- Whether it's acid mine drainage impacting rivers and streams; subsidence and landslides threatening homes, businesses, and infrastructure; or dangerous mine openings, AML sites pose serious risk to the health and safety of communities across the country, particularly in Appalachia.
- 5.5 million people in Appalachia live within 1 mile of an abandoned mine land site, including 1 in 3 West Virginians.
- That is why Congress has taken several steps to address these issues and ensure no one in these communities left behind.
- Congress passed SMCRA to perform two important functions.
- First, for mines that were already abandoned in 1977, SMCRA created a funding mechanism for states to reclaim those lands left in coal communities across the United States.

- The AML Program is funded by a fee levied on coal companies to assist states with reclamation and cleanup efforts on mine sites that were abandoned prior to the passage of the law. This program has proven to be a vital to the safety of these communities.
- Second, for operating mines going forward, SMCRA ensured mine sites would be adequately reclaimed by the owner during and after operations.
- SMCRA also established the Office of Surfacing Mining Reclamation and Enforcement or OSMRE within the Department of Interior to administer programs created by the law to ensure the environment and communities across the country are protected from legacy and active coal mining hazards.
- I am disappointed that this office does not have a Senate confirmed Director, and I am frustrated that the Biden administration has yet to nominate a candidate.
- When the AML Reclamation fee collection authority was expiring in 2021, I was proud to work with Ranking Member Barrasso on a bipartisan compromise to extend the fee for an additional 13 years.
- This agreement was ultimately included in the Bipartisan Infrastructure Law to provide certainty to communities with millions and even billions of dollars' worth of unreclaimed mine sites.
- The AML fee is extremely important but, unfortunately, that alone will not be enough to address all of the unfunded AML issues across the country.

- That is why we included an additional \$11.3 billion for AML clean up in the Bipartisan Infrastructure Law.
- West Virginia is on track to receive roughly \$140 million per year for the next fifteen years to address AML problem areas through that funding.
- To put into perspective how much of a game changer this is for my state, West Virginia only received around \$15 million from the traditional AML program for FY23. Our state's Bipartisan Infrastructure Law allocation for this year is more than 8 times that amount.
- The Bipartisan Infrastructure Law is finally providing the funding our state needs to make our communities safer in counties all across West Virginia.
- I'm thrilled that Rob Rice from the West Virginia Department of Environmental Protection who leads the state's AML program is here with us today and I look forward to hearing his perspective on the implementation of this important funding.
- The AML provisions in the Bipartisan Infrastructure Law are not just about protecting the safety of these communities, they are also an investment in our future.
- If implemented effectively, the Bipartisan Infrastructure Law's AML provisions could result in approximately \$4.3 billion in economic output for the state of West Virginia and 1,910 jobs that will continue for 13 to 15 years, according to a report from Downstream Strategies.
- As one example, West Virginia University has done extensive research into extracting rare earth elements from acid mine drainage,

providing an opportunity to strengthen our domestic supply chain for critical minerals while cleaning up streams, creeks and rivers that are impacted by legacy pollution as part of the AML program.

- It truly is a win-win.
- And speaking of win-wins, nothing could be a better example of how to make communities safer while finding productive uses of this once inhospitable land than through the Abandoned Mine Land Economic Revitalization Program or AMLER.
- AMLER provides grants to West Virginia, Virginia, Pennsylvania, Kentucky, Ohio and Alabama, the six Appalachian states with the highest amount of unfunded priority AML problem areas, in order to explore and implement strategies that return AML sites to productive uses through economic and community development.
- As a member of the Appropriations Committee, I am proud to support the AMLER program each year through the appropriations process.
- From salmon and lavender farms, to a new Hatfield-McCoy trail system, West Virginians are finding innovative ways to revitalize coal communities that have been impacted by abandoned mine lands and are wisely leverage these federal funds to help make it happen.
- While I am thrilled by the ingenuity of many West Virginians who are trying to make their communities better places to live, I have been disappointed to hear some of the concerns about how the AMLER program is being implemented, and these concerns are not unique to West Virginia.

- States get to choose which projects they want to see funded but they are beholden to vetting at OSMRE in order to receive project funding.
- I fully support robust vetting to ensure we are being responsible with tax payer dollars, but I am alarmed to hear how delayed the process has been. AMLER projects in Kentucky, for example, experience an average total vetting process of about 700 days.
- Give me a break.
- These coal communities sacrificed everything to power our nation to greatness and should be able to implement projects that will have a positive impact on their community in a timely manner.
- They sure as hell don't deserve to be strung along by the federal government, tied up in bureaucratic red tape, and forced to wait to put transformative projects into action.
- This is absolutely unacceptable.
- A long approval process for AMLER is unfortunately not the only problem.
- The administration is seeking to force new, and sometimes retroactive, rules on AMLER projects, such as requiring projects to record a covenant that gives the federal government extensive control over the land being used for these projects.
- These rule changes ultimately slow down assistance to our coal communities and send the signal that federal government is working

against them. This pattern throughout all of OSMRE's programs is alarming.

- Unfortunately, suggestions by states to make AML programs run smoother often seem to fall on deaf ears.
- Let me give you one example. States like West Virginia must submit three separate applications just to receive their AML funding from the Bipartisan Infrastructure Law, the traditional SMCRA AML program, and AMLER. These applications are not a small task and are filled with a lot of duplicative information that spans all three programs.
- State agencies have asked OSMRE to create a uniform process with less duplicative and burdensome paperwork, and yet no action has been taken to make this process more user-friendly.
- I am grateful that we have Deputy Director Owens here today to discuss the hardships some of these implementation rules are putting on our state agencies.
- While a lot of the programs mentioned today address pre-SMCRA coal mine land reclamation, I would be remiss if I also did not share my concerns about post SMCRA mine land reclamation and the risks that could be posed by insufficiently-bonded mines.
- Coal communities across the country are still trying to undo the damage of decades of unregulated mining earlier in our history, and we cannot risk adding further harm by piling on additional, unfunded reclamation needs not covered by bonding.
- These risks are particularly acute in Appalachia, where the prevalence of underground mines instead of surface mines can make reclamation more challenging and costly.

- Deputy Director Owens and Deputy Cabinet Secretary Rice I look forward to hearing your perspective on this issue today as well.
- While many of my colleagues on this committee do not have AML programs in their states because they do not have the same history of coal mining, many of their states do bear the scars of hardrock mines that were left behind without reclamation.
- Since there is no equivalent of SMCRA that addresses abandoned hardrock mines, it seems obvious that SMCRA will be looked to as a model as Congress considers changes to the Mining Law of 1872.
- As I have said repeatedly, it makes no sense at all to cart off federal minerals without any kind of royalty, especially as we leave communities suffering the ongoing consequences of legacy abandoned mines while taxpayers are on the hook for clean-up.
- So I hope this hearing will illustrate the lessons we have learned from coal mine land reclamation in this country and show how we can apply those to hardrock mining reform too.
- And with that I'll turn it over to Ranking Member Barrasso for his opening remarks.

Witness Introductions and Statements

- Thank you, Senator Barrasso.
- I'd like to turn to our panel of witnesses. We have:
 - Ms. Glenda H. Owens, Deputy Director of The Office of Surface Mining Reclamation and Enforcement at the U.S. Department of the Interior

○ Mr. Rob Rice, Deputy Cabinet Secretary of the West Virginia Department of Environmental Protection, Director of the Division of Land Restoration and proud West Virginian. *Rob has worked for the WVDEP since 2006, where he's held various positions: Abandoned Mine Lands (AML) Regional Planner, AML Regional Administrator and AML Chief. He has a bachelor's degree in wildlife and fisheries management as well as a master's degree in safety and environmental management, both from West Virginia University. Rob also serves as a member of Glenville State University's Natural Resource Management Advisory Committee. He lives in Charleston, West Virginia with his wife and two sons. It is always nice to have a fellow West Virginian here at the Energy and Natural Resources Committee.*

- And, I'd like to turn to my colleague Senator Barrasso to introduce our final witness, Mr. Don Newton.
- Now to witness opening remarks.
- Deputy Director Owens, we'll begin with you.
- Thank you. Next, we'll hear from Deputy Cabinet Secretary Rice
- Thank you. Now we'll go to Mr. Newton
- Thank you all again for being here with us and for your testimony. We will now begin with questions.