

**Statement of Lorali Simon
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**before the
Senate Committee on Energy and Natural Resources
United States Senate**

**regarding
Alaska's Coal Resources: Creating Jobs and Strengthening National Security**

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Good afternoon Chairman Murkowski and members of the committee. My name is Lorali Simon; I am the Vice President of External Affairs at Usibelli Coal Mine (UCM). Thank you for the opportunity to come before you today to discuss Alaska's coal resources and how our industry creates Alaska jobs and plays a vital role in strengthening national security. UCM is celebrating our 73rd year of operation. Usibelli proudly supplies 100 percent of the in-state demand to six coal-fired power plants. Additionally, UCM has a long history of exporting coal on the international market. Usibelli currently employs 108 people. The average wage paid to Usibelli employees is more than double the average wage in Alaska. Usibelli's operations directly provide about 20 percent of private sector employment for Healy's year-round residents.

The McDowell Group produced a report on the statewide socioeconomic impacts of Usibelli Coal Mine last year, which was based on 2013 data. The report tells a very compelling story. There were 640 direct, indirect, induced, and coal-fired power plant jobs, which equated to \$48.5 million in wages. UCM spent \$40.7 million with Alaska businesses and made up 20 percent of the Alaska Railroad Corporation's freight revenue.

Coal is Interior Alaska's lowest-cost source of energy and accounts for nearly one-third of electrical energy generation. In the absence of Usibelli Coal, energy costs in Interior Alaska would be much higher, perhaps 25 percent higher than they are today – a cost of \$200 million annually (depending on other fuels used).

If the military bases in Interior Alaska switched to natural gas, their heat and electricity costs would rise 250 percent assuming the lowest cost near-term delivery option. There is currently no natural gas available for use by the military.

Fort Wainwright and Eielson Air Force Base use an estimated 425,000 tons of coal annually for cogeneration purposes. Data was not available for an in-depth analysis of energy costs for the military but examining the annual consumption of energy, in the form of coal, allows for some basic understanding. Knowing the bases require approximately 6.5 million MMBtu annually and the cost of various sources of energy, financial implications of a switch to another source of energy can be explored.

The bases currently spend approximately \$33 million annually on coal purchases. If trucked natural gas from the North Slope becomes available, the bases could switch from coal to natural gas but energy costs would approximately triple. The proposed Interior Energy Project is forecasted to deliver natural gas at a cost of \$14-17/MCF. Using \$14/MCF, a switch to natural

gas would increase annual costs from \$33 million to more than \$91 million, or an increase of \$58 million annually.

Another way to understand the cost-saving nature of coal is to examine a scenario where the bases relied upon diesel generators for their electrical energy and heating needs. Assuming diesel costs \$2 per gallon (the current market rate for large scale consumers), purchasing 6.5 million MMBtu would increase energy costs from \$33 million to approximately \$94 million, an increase of \$61 million.

Military spending is estimated to support 30 percent of the Fairbanks economy. Large increases in energy costs could risk maintaining the military's presence in the Interior.

Senator Murkowski, we cannot deny the reality that unnecessary government regulation is taking its toll on our industry. Primarily, Usibelli is deeply concerned about the proposed Stream Protection Rule (SPR) by the Office of Surface Mining and Reclamation Enforcement (OSM). If this proposed rule becomes final, it will likely kill all coal development in Alaska.

The SPR represents a complete rewrite of the 1977 Surface Coal Mine Control and Reclamation Act (SMCRA) – it is not a simple revision. Congress passed SMCRA, yet today we are seeing unelected federal employees violate legislative intent which will kill America's coal industry.

When SMCRA was passed, it included language granting individual States primacy over their own coal regulatory programs. The State of Alaska has managed the Alaska Surface Coal Mining Control and Reclamation Act (ASCMCRA) since 1983 and has a successful record of stringent oversight of coal mining activities here. The proposed SPR is a violation of States' rights. The proposed rule unlawfully seizes the regional discretion granted in SMCRA and overthrows State primacy.

In the proposed SPR, OSM targets coal mining in Appalachia; yet the proposed rule is being smeared across the entire country. Senator, I do not have to tell you how unique the geology is on the North Slope of Alaska versus Southeast Alaska. Yet this proposed rule is meant to be a one-size-fits-all approach to coal mining from the eastern United States all the way across the country. Alaska was not considered, nor consulted, during the drafting of the proposed rule. No scientific studies relevant to Alaska are referenced in the documentation, and no public meetings were held here.

Of greatest concern to us is that we had only 91 days to review and evaluate over 3,000 pages of the Environmental Impact Statement, Economic Analysis, Regulatory Impact Analysis, and appendices. All of which took OSM over six years to produce, yet industry, states agencies, and stakeholders had only 91 days to review. UCM did not have enough time to thoroughly review these documents to understand each implication proposed. I am not confident that I completely understand this re-write of legislation today. However, those provisions we have had time to analyze would prove disastrous for the coal mining industry and the communities it supports.

When Assistant Secretary Schneider testified before this committee on October 27, 2015, she was unable to explain why the proposed rule included a nullification clause. I would posit that it

was because she also did not have enough time to thoroughly review the proposed rule before the comment period closed (which was the day of her testimony). Quite simply, the proposed rule gives OSM the ability to invalidate an active mining permit if the agency finds it to be inadequate – for any reason. This permit nullification occurs retroactively and automatically, without any action necessary on the part of the regulatory authority. This would penalize the operation for the time in which it operated as if it never completed the permitting process and received approval and was effectively mining without a permit. Senator, this is unfair. It adds risk to project developers with no added benefit to the environment.

Further, the proposed SPR would allow OSM to assume jurisdiction over a property after the site is reclaimed and the final bond has been released. This creates great uncertainty to any project and exposes the company to indefinite liability. It is important to remember that it is the State that decides when a project has met its reclamation goals and releases the final bond.

Alaska's Coal Regulatory Program provides several different bonding mechanisms to be used for Alaska's coal mines. The State of Alaska has appropriate and sufficient financial assurances in place. However, the proposed SPR eliminates the bonding requirements provided in Alaska's regulations. Self-bonding would no longer be acceptable even though the State has a regular audit system and has not identified any problems with it. By removing the ability to self-bond, OSM is adding additional cost to operations by requiring alternative instruments such as surety bonds, however, surety bonds are not a viable option in Alaska – they are cost prohibitive in our industry.

As proposed, the SPR contains numerous new definitions of existing terms. While I do not feel confident that I was able to identify all of them, the most disturbing new definition is of “material damage to the hydrologic balance,” which was previously defined by individual states based on what is appropriate for their region. The proposed SPR includes a new, nationwide definition, which completely disrespects the regional diversity SMCRA was enacted to protect. A broad definition applied to the entire country is ridiculous, and it is a violation of the Clean Water Act. The State of Alaska cannot be required to administer regulations that are in conflict with Alaska Statute.

In summary, I do not believe that the proposed SPR can be fixed enough to be palatable. I believe the entire proposed rule should be thrown out, and the agency should begin again – this time in proper consultation with the States. Since it is unlikely that the administration will take such action, another very simple solution would be the passage of S. 1458.

Senator Murkowski, Usibelli Coal Mine respectfully requests the committee to pass S. 1458, Senator Coats “Supporting Transparent Regulatory and Environmental Actions in Mining” Act. This bill will require the Secretary of Interior to make publicly available all data relied on for new regulations, environmental impact statements, and environmental/economic assessments. The bill will also ensure that the Secretary does not needlessly duplicate or encroach upon environmental laws under the jurisdiction of other agencies. The bill will encourage a transparent rule making and guarantee that the proposed SPR does not add needless regulation.

Thank you for the opportunity to testify today. I am happy to answer your questions.