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December 21, 2021

The Honorable Deb Haaland  
Secretary of the Interior  
U.S. Department of the Interior  
1849 C Street N.W.  
Washington, D.C. 20240

Dear Secretary Haaland:

The PA AML Campaign is a coalition of non-government organizations representing thousands of individuals dedicated to addressing the burdens on communities long suffering from the health hazards and economic burdens of abandoned coal mines and Acid Mine Drainage (AMD). Thank you for your leadership on the Infrastructure Investment and Jobs Act which began as President Biden's Bipartisan Infrastructure Framework. The \$11B of Treasury funds appropriated for reclamation of abandoned mine land and restoration of polluted streams is historic.

One point that needs clarified is whether States and Tribes will be able to use some of the Treasury funds to treat the AMD that flows from abandoned coal mines, whether through mine openings, seeps, tunnels or boreholes. There is some confusion out here because the federal Surface Mining Control and Reclamation Act (SMCRA) contains restrictions that severely limit when Abandoned Mine Land (AML) fee money collected from coal companies can be used to build, operate, maintain, and rehabilitate AMD treatment facilities. These restrictions have severely limited the clean-up of our water.

We need you and the Office of Surface Mining Reclamation and Enforcement (OSMRE) to make it clear to everyone that the Treasury funds appropriated in the Infrastructure Investment and Jobs Act can be used to treat AMD, wherever it is found, and to operate, maintain, and rehabilitate AMD treatment facilities. We do not want to miss this opportunity to make historic progress restoring our streams.

We understand AML fee-based grants must be used in "strict compliance" with the priorities mandated by SMCRA. However, appropriations are subject to fewer restrictions than statutorily created AML fee-based grants. The infrastructure appropriation specifies the Treasury funds are for abandoned land and water reclamation projects. It goes on to say the Treasury funds are to be used for reclamation activities described in Sections 403(a) and (b), and 410 of SMCRA. Section 403(a) identifies reclamation priorities and requires expenditures to "reflect" the priorities in the order stated. "Reflect" in the context of an appropriation means to "consider" or "take in account." Section 403(a) allows discretion for a State or Indian Tribe to address a mix of priorities so long as they "reflect" the Section 403(a) priorities. As stated in Section 401(c) of SMCRA, grant money can be used for the "prevention, abatement, treatment and control of water pollution" and "construction and operation of water treatment plants."



Secretary Haaland, you also have the power under Section 413(a) of SMCRA to do everything you need to do in order to implement the abandoned mine land reclamation parts of SMCRA. One of the purposes of this part of the law includes “restoration of water resources” and “prevention, abatement, treatment, and control of water pollution created by coal mine drainage,” including “operation of water treatment plants.” We request you use this authority to make it clear that the appropriated Treasury funds can be used to build, operate, maintain, and rehabilitate new and existing AMD treatment facilities and that States and Tribes can put some of their money aside for such future costs. The AMD does not need to be adjacent to a dangerous abandoned mine nor limited to the bureaucracy of qualified hydrologic units.

Thank you for your help. With this simple clarification you, OSMRE, States, Tribes, and local communities can make historic improvement in the lives of people abandoned by coal companies.

Sincerely,

Andy McAllister  
Western PA Coalition for Abandoned Mine Reclamation  
PA AML Campaign Co-chair

Amy Wolfe  
Trout Unlimited  
PA AML Campaign Co-chair

Member organizations of the PA AML Campaign:  
Trout Unlimited

Western PA Coalition for Abandoned Mine Reclamation  
Pennsylvania Environmental Council  
Eastern PA Coalition for Abandoned Mine Reclamation  
Citizens Coal Council  
Friends of the Cheat  
West Virginia Water Resources Institute

cc: Tommy Beaudreau, Deputy Secretary of the Interior  
Robert Anderson, Solicitor  
Laura Davis, Principal Deputy Assistant Secretary – Land and Mineral Management  
Steve Feldgus, Deputy Assistant Secretary – Land and Mineral Management  
Glenda Owens, Deputy Director, Office of Surface Mining Reclamation and Enforcement  
Gina McCarthy, White House National Climate Advisor