

Office of Surface Mining and Reclamation and Enforcement

Bureau of Land Management

Public Meeting Department of Interior

Solicitation of Public Comment

Proposed Consolidation of OSM within BLM

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My name is Edward Grandis. I am here today offering testimony as a private citizen. I am a resident of Washington, DC and an attorney with a business law private practice.

I have been concerned with the impacts of coal surface mining and the surface effects of underground coal mining on public lands and on private property rights and the environmental and social impacts to residents, farmers, ranchers and Native Americans since the early 1970's

I had the privilege of working with coalfield residents, farmers and ranchers, Native Americans, and national organizations providing documentation of surface coal mining activity that damaged homes, water systems, agricultural production, ecological and biological damage as well as impacting cultural sacred sites to congressional committees and staff in the development of the Surface Mining Control and Reclamation Act of 1977 statute (SMCRA).

I had the responsibility to coordinate the national citizen effort in the development of the initial federal regulations and then coordinating the review of the various state programs as they were submitted to DOI.

Over those years it was an education to travel to almost all the coal producing states working with residents and civic organizations, agricultural organizations, county and state elected officials and agencies, and Native Americans and their tribal governments in their support for a strong and independent Office of Surface Mining Reclamation and Enforcement (OSMRE) agency with policies written to ensure that coal is mined under stringent public safety and environmental protection standards, and that all mined land must be fully reclaimed to their pre-mining productivity.

Today, I am here to offer public comment on DOI Secretarial Order 3315. Simply stated the implementation of that Order will be illegal. A bi-partisan Congress over a course of many years carefully crafted language to address its concern for an independent agency including the prohibition of co-mingling of employees of any federal agency that "promotes the development or use of coal" with the OSMRE.

The mission of BLM and the mission of OSMRE cannot be reconciled through the budget process or administrative realignments without an act of Congress. While all the stakeholders of SMCRA strive for government to rid itself of inefficiencies and duplication, the implementation of Order 3315 will not accomplish either, but rather be an expensive and resource wasted exercise that will diminish the ability of either agency to meet its statutory mandates.

Regarding SMCRA not much has improved since Congressman Udall wrote in January, 1990, "Unfortunately, [SMCRA] has not accomplished all that we had hoped. He went on to write, "There are many reasons for this. Clearly, the federal government and certain states have not fulfilled their mission under the law. This is not a problem with a law that is flawed or is too weak; it is a resistance to enforce it. Many who have looked at Order 3315 believe its implementation will further erode the ability of the government to meet the statutory mission of SMCRA.

From 1990 through 2010 there has been a marked increase in the total tonnage of surface mined coal produced compared to underground coal mined. This coupled with the commitment for the rebuilding of the OSMRE to meet its statutory mandates by this Administration seems to undercut the justifications of the implementation of Order 3315

Over the last couple of decades I have studied the budgets of numerous agencies. Often the justifications are couched in terms of existing inefficiencies, duplication of functions and to reduce waste. However, these analyses are blemished by the overriding desire to reduce agencies expenditures or "hide" them so that the administration can attempt to say it is reducing the cost of government. However, statutory mandates cannot be legally ignored.

The residents of our coal field areas have been waiting for SMCRA to fulfill its mission, not be a pawn to wither away as part of a partisan fight to reduce the size of government during a national election year cycle.

In closing, I want to associate myself with the Statement of Patrick C. McGinley before the United States Senate Committee on Energy and Natural Resources on November 17, 2011 when he gave testimony on this proposal. I concur with his findings and statements that the promulgation of this Order was ill-conceived and dishonors the letter and spirit of SMCRA and should be withdrawn.

I want to thank the Directors of OSMRE and BLM as well as representatives of the Secretary of Interior who made this public meeting possible to invite public comment on Order 3315. I concur with the judgment of another attorney regarding this matter with his statement that this Order should "die a quiet death". Instead of handicapping either of these important agencies this administration should be educating the White House and Congress on the need to fully fund these agencies to meet their congressionally mandated missions.

I respectfully request that my statement be made part of the record of this public meeting. I welcome any questions that OSMRE or BLM representatives may have.