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SENATE RESOLUTION

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WHEREAS, The Department of the Interior's Office of Surface Mining, Reclamation, and Enforcement (OSMRE) is considering new sweeping regulations that would cut surface mining production and jobs by 21-30%, cut underground coal mining jobs up to 50%, and risk eliminating over 66,000 direct and indirect jobs nationwide; and

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WHEREAS, Beginning in 2003, OSMRE conducted a 5-year process, including public hearings, the submission of thousands of public comments, and preparation of an environmental impact statement, that culminated in final regulations adding significant new environmental protections regarding the placement of excess spoil and clarifying its regulations relating to stream buffer zones pursuant to the Surface Mining Control and Reclamation Act (SMCRA); and

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WHEREAS, The Secretary of the Interior attempted to avoid a public rulemaking process by asking a court to vacate the 2008 OSMRE stream buffer zone rule without public comment as required under the Administrative Procedure Act, but was rebuked by a federal court which ruled that the Secretary may not repeal the stream buffer zone rule without going through a rulemaking process that includes public notice and comment; and

1 WHEREAS, OSMRE, in its own words, admitted that before any
2 public comments were even received on its proposals, it had
3 "already decided to change the (stream buffer zone) rule
4 following the change in administrations on January 20, 2009";
5 the Office is calling the new rule the "stream protection
6 rule", and it is much broader in scope than the 2008 stream
7 buffer zone rule; and

8 WHEREAS, OSMRE has failed to justify why a new stream
9 protection rule is necessary or to explain the problem that the
10 Office is attempting to fix, and such concerns have been echoed
11 by the Interstate Mining Compact Commission, an organization
12 representing state mining regulators with substantial
13 expertise in SMCRA regulation; and

14 WHEREAS, OSMRE is inappropriately rushing to complete the
15 rulemaking because of a unilateral settlement agreement with
16 environmental groups, and is committing such flagrant
17 violations of the required National Environmental Policy Act
18 process that 8 of the state cooperating agencies have written
19 to the Office objecting to its quality, completeness and
20 accuracy, as well as calling the document "nonsensical and
21 difficult to follow", and ultimately threatening to pull out of
22 the process; and

23 WHEREAS, The coal mining industry is critical to the

1 economic and social well being of the citizens of Illinois,
2 accounting for over 3,500 direct workers and another 24,500
3 indirect jobs that have an impact of over \$1 billion on the
4 State's economy; therefore, be it

5 RESOLVED, BY THE SENATE OF THE NINETY-SEVENTH GENERAL
6 ASSEMBLY OF THE STATE OF ILLINOIS, that we express serious
7 concern about the scope, justification, and substance of the
8 OSMRE's stream protection rule, as well as about the procedure
9 and process that have been used to adopt that rule; and be it
10 further

11 RESOLVED, That we call upon OSMRE to immediately suspend
12 work on the environmental impact statement and the stream
13 protection rule until such time as the Office:

14 (1) clearly and publicly articulates why the 2008
15 regulation has not been implemented and provides specific
16 details regarding each of its provisions and why the Office
17 believes that they are insufficient;

18 (2) provides scientific data and other objective
19 information to justify each and every provision of the new
20 proposal;

21 (3) explains why the Office is contradicting its own
22 annual state inspection reports which indicate good
23 environmental performance and refute the need for this new
24 rule;

1 (4) justifies why a more limited approach would not
2 achieve the objectives of the Office; and

3 (5) surveys all of the state regulatory authorities to
4 determine whether they agree that such significant
5 regulatory changes are necessary; and be it further

6 RESOLVED, That we also urge Congress to oppose this
7 unwarranted effort by the present Presidential Administration
8 by withholding any further funding for OSMRE for the stream
9 protection rule and environmental impact statement until such
10 time as the Office justifies the need for new rules; and be it
11 further

12 RESOLVED, That suitable copies of this resolution be sent
13 to President Barack Obama, the President pro tempore of the
14 United States Senate, the Speaker of the United States House of
15 Representatives, the Secretary of the Department of the
16 Interior, and each member of the Illinois congressional
17 delegation.