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**U.S. House of Representatives**  
**Committee on Natural Resources**  
**Washington, DC 20515**

March 13, 2014

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Mary Kendall  
Deputy Inspector General  
Office of Inspector General  
U.S. Department of the Interior  
1849 C Street, NW 20240

Dear Ms. Kendall:

On December 23, 2013 the Committee on Natural Resources (“Committee”) sent a letter to the Office of Inspector General (“OIG”) for the Department of the Interior (“Department”) requesting a complete and unredacted copy and underlying attachments for an OIG report of investigation into the Office of Surface Mining, Reclamation and Enforcement’s (“OSM”) efforts to rewrite the 2008 Stream Buffer Zone rule. The request also sought drafts of and edits to the OIG report, as well as entries from the OIG’s case management system for the report.

For over three years, the Committee has had serious concerns about the process being used to rewrite this rule and the impact that a new rule would have on jobs and the economy. In the past five years, the Obama Administration has spent over \$9 million in response to litigation with environmental groups challenging the 2008 rule, has fired contractors working on the rule when the potential job loss numbers became publicly known, and has not yet even issued a proposed rule after all these years and millions of dollars spent. The OIG’s December 2013 report confirmed many aspects about the Committee’s own oversight into this wasteful and mismanaged rulemaking process, summarized in a 2012 majority staff report.<sup>1</sup>

In its January 6, 2014 response to the Committee’s request, the OIG stated it was withholding certain documents and information from the Committee because the Department “identified the material as pre-decisional and privileged.” It is troubling to note that the OIG’s investigation appears to have found that problems persist with the Department’s handling of its new contractors – an entire section of the report is entitled “Issues with the New Contract.” And yet, the OIG is withholding from Congress the notes and transcripts of its interviews with the

<sup>1</sup> Majority Staff Report, “The President’s Covert and Unorthodox Efforts to Impose New Regulation on Coal Mining and Destroy American Jobs,” issued September 20, 2012. Available at: [http://naturalresources.house.gov/uploadedfiles/staffreport-112-osm\\_sbzr.pdf](http://naturalresources.house.gov/uploadedfiles/staffreport-112-osm_sbzr.pdf).

new contractors (identified as Attachments 97, 98, 101, and 102) and has redacted portions of the report that would explain what these problems are.

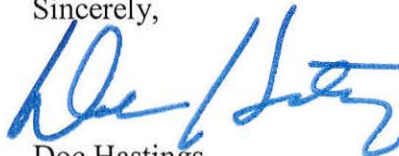
The OIG's unwillingness to date to provide the Committee with a complete and unredacted copy of its final report and drafts, all related attachments, and entries from its case management system is unacceptable and is only the latest instance of the OIG's cooperative approach at interacting with the Department – at the expense of fulfilling its statutory obligation to be an independent watchdog and to keep Congress fully informed of management problems and fraud, waste, and abuse within the Department. Allowing the Department to screen the information the OIG provides to Congress is counterproductive and undermines not only the OIG's role in fostering integrity and accountability within the Department but also its relationship with Congress.

It is imperative that the OIG provide the requested information so Congress can fully understand the extent to which the Department is continuing to mismanage the rulemaking process. Without a full accounting of the issues with the current contractor, which the unredacted versions of the OIG report and attachments would provide, there can be no confidence that the Department is being a responsible steward of taxpayer dollars or that its efforts would prevent further litigation or regulatory uncertainty.

As the Committee has expressed to the Department and the OIG previously, generalized claims of Executive Branch confidentiality interests and common law privileges do not justify withholding information from Congress. To date, a claim of Executive Privilege has not been asserted as a basis for the continued withholding of this information.

This letter affords the OIG a final opportunity to produce an unredacted copy of its December 20, 2013 report, unredacted copies of relevant attachments (including Attachments 97, 98, 101, and 102), all drafts and edits to the OIG report, and entries from the case management system. It is expected that the OIG will fully comply with the Committee's voluntary request no later than 12 noon on March 17, 2014, otherwise production of the requested material may be compelled.

Sincerely,



Doc Hastings  
Chairman