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

July 15, 2015

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The Honorable Gene L. Dodaro
Comptroller General of the United States
U.S. Government Accountability Office
441 G Street, NW
Washington, DC 20548

Dear Comptroller Dodaro:

The National Environmental Policy Act ("NEPA") of 1969 (42 U.S.C. 4321 et seq.) and its implementing regulations strongly emphasize interagency cooperation in order to incorporate valuable expertise and streamline the environmental review process.

The Office of Surface Mining Reclamation and Enforcement ("OSM"), as the lead agency for the NEPA review of the Stream Buffer Zone Rule ("SBZR") rewrite, entered into memoranda of understanding ("MOU") with a number of states. These MOUs set forth the expectations and responsibilities for the lead and cooperating agencies for environmental impact statement ("EIS") activities under NEPA for the Stream Protection rulemaking and afforded cooperating agency status to the signatory states. However, it appears OSM has excluded the states from the NEPA process in contradiction of both NEPA regulations and their MOUs.

OSM has denied states the opportunity to participate in the NEPA review, even though NEPA regulations require lead agencies to "[r]equest the participation of each cooperating agency . . . at the earliest possible time" and "collaborate, to the fullest extent possible, with all cooperating agencies concerning those issues relating to their jurisdiction and special expertise." This duty begins "at the earliest possible time" and extends "throughout the development of an environmental document."

The cooperating agencies for the SBZR rewrite were exposed to OSM's exclusionary tactics, failure to "provide[] for meaningful participation," and continual limiting of the states'

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involvement over the past several years. Due to these failures several states have withdrawn from their MOUs and are no longer part of the environmental review process for the Stream Protection Rule.

We request that GAO provide the below information regarding the development of the SBZR and responsibilities of OSM under NEPA.

1. What legal obligations did OSM have to cooperate with state agencies under NEPA, applicable CEQ and DOI regulations, and the MOUs OSM entered into with the states?
2. How did OSM address its obligations to cooperate with the state agencies and what policies were in place to ensure the commitments under the MOU were met?
3. Were OSM's obligations and commitments fulfilled throughout the environmental review process?
4. How does OSM (or, more broadly, the Department of the Interior) treat cooperating agencies? Was this particular process atypical in any way?
5. Were the expectations of the states addressed according to their *understanding* of the MOUs OSM signed?

Please direct questions with regard to this request to Jessica Conrad with the Subcommittee on Oversight and Investigations at (202) 226-5727. Thank you for your assistance with this request.

Sincerely,



Rob Bishop

Chairman

Committee on Natural Resources