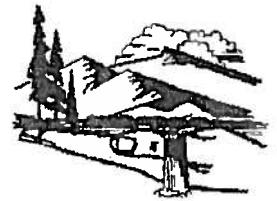




# Department of Environmental Quality

*To protect, conserve and enhance the quality of Wyoming's environment for the benefit of current and future generations.*



Matthew H. Mead, Governor

Todd Parfitt, Director

May 22, 2015

Mr. Joseph G. Pizarchik  
Director, Office of Surface Mining Reclamation and Enforcement  
U.S. Department of Interior  
1951 Constitution Avenue, NW  
South Interior Building  
Washington, DC 20240

RE: Stream Protection Rule Cooperating Agency Status

Dear Director Pizarchik:

The Wyoming Department of Environmental Quality (DEQ) continues to be disappointed and concerned about the lack of engagement by the Office of Surface Mining (OSM) with cooperating agencies regarding the Stream Protection Rule EIS process. DEQ has joined with the other cooperating agency states on three letters to you expressing our concern and expressing our desire and willingness to engage and provide input on the Stream Protection Rule as cooperating agencies. Unfortunately, OSM has chosen to ignore the request's by states to participate as cooperating agencies.

As I noted at our April 27, 2015 meeting in Baltimore, DEQ has extensive experience partnering with federal agencies as a cooperating agency. DEQ is routinely engaged on the development of rules, EIS documents and BLM management plans for example. This experience reinforces my point that early engagement of states as well as engagement throughout the entire process results in a positive interagency relationship and a quality end product. OSM's approach was to only provide states a single review opportunity under unreasonably short deadlines in September 2010 for Chapter 2, October of 2010 for Chapter 3 and January 2011 for Chapter 4.

As stated by OSM on April 27, 2015, the early draft EIS chapters that were shared with the cooperating states in 2010 and 2011 were of poor quality and incomplete. As further explained by your staff on April 27, 2015, the most recent draft EIS (which OSM has refused to share with cooperating states) is a major change from the first draft with five (5) new alternatives in addition to the original four (4) alternatives and other significant changes.

Our experience with other federal agencies in drafting an EIS is that subsequent drafts are shared with states for additional review and input. OSM has not engaged the cooperating agencies in the EIS development since January 2011. Under no measure of "cooperation" does that lack of



engagement honor the intent or terms of the Memorandum of Understanding (MOU) between DEQ and OSM dated August 25, 2010.

DEQ is disturbed by OSM's reluctance to allow cooperating states the opportunity to review the latest version of the Stream Protection Rule and the reluctance to honor the terms of the August 25, 2010 MOU. The state seals for cooperating agencies are normally affixed to documents when they are released for public comment. This is for the purpose of indicating that the cooperating agencies had meaningful participation in the process. Because OSM has elected not to allow meaningful participation by Wyoming on the Stream Protection Rule EIS Wyoming's state seal should not be used on or in the EIS document. Finally, I am requesting the final draft acknowledge the fact that Wyoming was not given an opportunity to review or provide comment on the Stream Protection Rule EIS since January 2011.

Sincerely,

A handwritten signature in black ink, appearing to read "Todd Parfitt", with a stylized flourish at the end.

Todd Parfitt, Director  
Department of Environmental Quality

cc: Governor  
Senator John Barrasso  
Senator Mike Enzi  
Representative Cynthia Lummis  
Alan Edwards, DEQ  
Greg Conrad, IMCC