



Adopted on September 26, 2016

Resolution sponsored by: Representative Jim Gooch, Jr., Kentucky

## **8.2016 | SSEB Resolution Concerning the Stream Protection Rule**

**WHEREAS**, the Southern States Energy Board (SSEB) supports the protection of human health, the environment and the appropriate development of our Nations' natural resources as well as reasonable, practicable and sensible efforts to manage clean air, the proper handling of waste materials and the restoration of mine lands; and

**WHEREAS**, under existing rules, 90 percent of all coal mines have no offsite impacts—and in many states 100 percent of the operations are free of any offsite impacts—according to the U.S. Department of Interior's oversight reports; and

**WHEREAS**, following a five year period of development, the Office of Surface Mining Reclamation and Enforcement (OSMRE) within the DOI published a proposed rule on July 19, 2015 (80 Fed. Reg. 44435) that addressed, among other things, the protection of streams affected by surface coal mining and reclamation operations; and

**WHEREAS**, the rule exceeds OSM's statutory authority and infringes on the authority and ability of states to implement SMCRA; and

**WHEREAS**, the rule imposes extensive monitoring and reclamation requirements without sound scientific justification; and

**WHEREAS**, OSM asks the U.S. Fish and Wildlife Service to take over primary responsibility for permitting mine sites by giving the Service veto authority over every mining project. Permitting mines is the purview of OSM and state regulators, not the Fish and Wildlife service; and

**WHEREAS**, the rule fails to recognize critical differences between Eastern and Western mining conditions; and

**WHEREAS**, OSM's own internal analysis of an earlier version of the rule showed a loss of more than 7,000 high-paying jobs in 22 states. An independent analysis showed far worse impacts—with job losses approaching 80,000 people. Its impact will be felt beyond the coalfields, driving up energy costs for families and businesses; and

**WHEREAS**, during the five year development period of these documents, states with primacy under SMCRA attempted to engage with OSMRE either as cooperating agency states under the National Environmental Policy Act (NEPA) or as state commentators on the rule; and

**WHEREAS**, nine of ten states that signed an MOU with OSM to assist in the development of accurate information to determine the need or scope of the rule terminated their participation after being subjected to a four-year blackout period of any dialogue or consultation; and



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**WHEREAS**, report language accompanying the Consolidated Appropriations Act of 2016, P.L. 114-113, enacted on December 18, 2015, included language requiring OSM to reengage the primary states in a meaningful way prior to finalizing any rulemaking; and

**WHEREAS**, coal mining contributes more than \$18.5 billion annually in state and federal tax revenues. The rule would reduce annual tax revenues by 15-35 percent; and

**WHEREAS**, The United States possesses the largest single energy resource on the globe with over 400 billion tons of demonstrated coal reserves. The proposal could sterilize two-thirds of the recoverable reserve base. More than half the underground reserves could be rendered unrecoverable—a result at direct odds with SMCRA which finds that the regulatory policies should encourage underground mining; and

**WHEREAS**, if the states had been given adequate opportunity to provide their policy and technical expertise through a meaningful process and had OSM welcomed that input, the rule would have better accounted for the diversity in regional and ecological conditions, impacts to state program implementation and the appropriate discretion vested by SMCRA in primary states that have been regulating coal mining operations for more than 30 years.

**THEREFORE BE IT RESOLVED**, that the Southern States Energy Board supports early, meaningful and substantial state involvement in the development and implementation of environmental and natural resources statutes, policies, rules, programs, reviews, budgets and strategic plans; and

**BE IT FURTHERRESOLVED** that the Southern States Energy Board urges the Department of Interior to withdraw its Stream Protection Rule and fully comply with the Congressional directive to work with the states, regulated industry, and other members of the public to put forth a more appropriate proposal; and

**BE IT FURTHERRESOLVED** that the Southern States Energy Board urges Attorneys General to engage in opposition to the rule if DOI and OSM have not engaged states in a meaningful process; and

**BE IT FURTHER RESOLVED** that the Southern States Energy Board urges Congress to pursue options to overturn the rule.