

United States Senate

WASHINGTON, DC 20510

January 8, 2014

Ms. Janice Schneider
Assistant Secretary Nominee
U.S. Department of the Interior
1849 C Street, NW – M.S. 6038
Washington, D.C. 20240

Dear Ms. Schneider:

We are writing in regards to your nomination to be Assistant Secretary for Land and Minerals Management at the Department of the Interior (DOI).

On December 20, 2013, the Inspector General issued a report detailing how the Office of Surface Mining (OSM) ordered subcontractors to change the method by which they had estimated job losses expected to result from OSM's proposed stream rule. The report raises many troubling questions about the integrity of OSM's rulemaking process. If confirmed, you will oversee OSM. We, therefore, believe it is appropriate that you read the report and address our concerns about issues raised by the Inspector General before the Committee acts on your nomination.

We are especially concerned with OSM's decision to *reverse* its position on how to estimate job losses expected to result from its proposed stream rule. In 2010, OSM directed subcontractors to estimate job losses that would take place if OSM replaced a 1983 stream rule with the proposed stream rule. However, once the subcontractors estimated that 7,000 jobs would be lost as a result of the new rule and the media reported this figure to the public, OSM ordered the subcontractors to estimate job losses by assuming the proposed stream rule would replace a 2008 stream rule—a rule which was more stringent than the 1983 stream rule, but one that OSM had already tried to withdraw and which had not taken effect in any state other than Tennessee and Washington.*

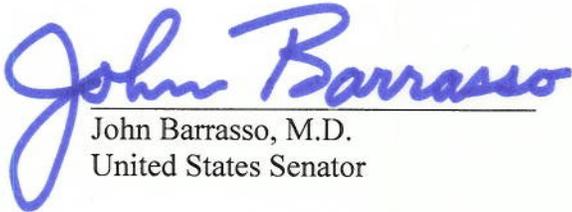
We find OSM's actions to be highly disturbing. The report shows that political appointees at OSM ordered career staff and the subcontractors to change the method for estimating job losses largely for political purposes—specifically, to lower the job loss estimates which embarrassed the Administration. As you know, the rulemaking process must inform the public about the costs and benefits of an agency's proposed regulations. Neither OSM nor any other agency should rig the method by which costs and benefits are estimated in order to achieve a politically desired outcome. Such actions violate Federal law and must not be allowed to take place.

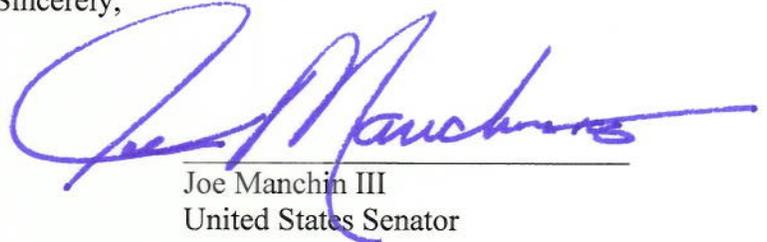
OSM should abide by its original position on how to estimate job losses expected to result from its proposed stream rule and we will only be able to support a nominee who shares this view. Specifically, we will need your commitment that, if confirmed, you will direct OSM and any contractors to estimate job losses by acknowledging that the proposed stream rule would replace the 1983 stream rule—not the 2008 stream rule—in states other than Tennessee and Washington. We also need your commitment that agencies under your oversight will estimate job losses from

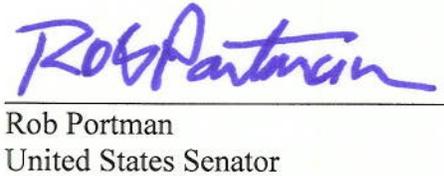
any ongoing or future rulemakings by assessing the impacts that would take place if the new rule replaced a rule currently—*not* hypothetically—in effect. We believe our requests are reasonable and, if granted, will only help to restore the public’s confidence in DOI’s rulemaking process.

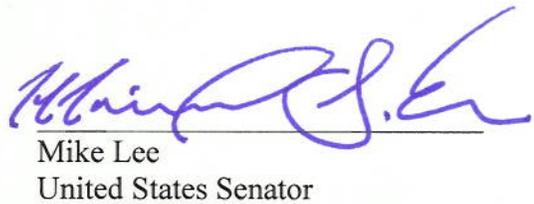
Thank you for your consideration and we look forward to your prompt response.

Sincerely,


John Barrasso, M.D.
United States Senator


Joe Manchin III
United States Senator


Rob Portman
United States Senator


Mike Lee
United States Senator

*The 2008 stream rule also applies to Indian lands.