

ERDOS NOMINATION

HEARING BEFORE THE COMMITTEE ON ENERGY AND NATURAL RESOURCES UNITED STATES SENATE ONE HUNDRED SIXTEENTH CONGRESS

FIRST SESSION

TO

CONSIDER THE NOMINATION OF LANNY E. ERDOS TO BE DIRECTOR OF
THE OFFICE OF SURFACE MINING RECLAMATION AND ENFORCE-
MENT AT THE DEPARTMENT OF THE INTERIOR

DECEMBER 17, 2019



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CONTENTS

OPENING STATEMENTS

	Page
Murkowski, Hon. Lisa, Chairman and a U.S. Senator from Alaska	1
Manchin III, Hon. Joe, Ranking Member and a U.S. Senator from West Virginia	2

WITNESSES

Johnson, Hon. Bill, a U.S. Representative from Ohio	5
Erdos, Lanny E., nominated to be Director of the Office of Surface Mining Reclamation and Enforcement at the Department of the Interior	6

ALPHABETICAL LISTING AND APPENDIX MATERIAL SUBMITTED

Baker, Robert:	
Letter for the Record	34
Bowman, Jennifer:	
Letter for the Record	24
Butalia, Dr. Tarunjit:	
Letter for the Record	35
Cera, Hon. Jack:	
Letter for the Record	37
Department of Environmental Quality, State of Wyoming:	
Letter for the Record	16
DeWine, Hon. Mike:	
Letter for the Record	38
Erdos, Lanny E.:	
Opening Statement	6
Written Testimony	8
Responses to Questions for the Record	31
Interstate Mining Compact Commission:	
Letter for the Record	39
Resolution	41
Johnson, Hon. Bill:	
Introduction	5
Manchin III, Hon. Joe:	
Opening Statement	2
Mertz, Mary:	
Letter for the Record	26
Murkowski, Hon. Lisa:	
Opening Statement	1
Ohio Aggregates & Industrial Minerals Association:	
Letter for the Record	27
Phillips, Debbie:	
Letter for the Record	28

ERDOS NOMINATION

TUESDAY, DECEMBER 17, 2019

U.S. SENATE,
COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Washington, DC.

The Committee met, pursuant to notice, at 10:10 a.m. in Room SD-366, Dirksen Senate Office Building, Hon. Lisa Murkowski, Chairman of the Committee, presiding.

OPENING STATEMENT OF HON. LISA MURKOWSKI, U.S. SENATOR FROM ALASKA

The CHAIRMAN. Good morning, everyone. The Committee will come to order.

We are here this morning to consider the nomination of Mr. Lanny Erdos to be the Director of the Office of Surface Mining Reclamation and Enforcement within the Department of the Interior. This is an important position. I certainly think that you, Mr. Erdos, are qualified for it. Apparently you are going to be receiving an endorsement from my colleague here. I don't want to preempt—

Senator MANCHIN. Absolutely.

The CHAIRMAN. —but he verifies that you are from a good place in West Virginia and that is certainly helpful.

Since Congress enacted the Surface Mining Control and Reclamation Act (SMCRA) in 1977, OSM has overseen coal mining throughout the country. The Office also manages the Abandoned Mine Lands (AML) Fund which is used to reclaim historic mines that pose a risk to human health and the environment. While OSM plays an important role in approving and monitoring projects, SMCRA clearly envisions states as the lead regulator of coal mines. Currently 23 states have primacy over coal mining and reclamation programs, and 13 states have been delegated authority to regulate coal-related activities on federal lands within their boundaries. This structure allows federal laws and programs to be implemented efficiently by those who are closest to the impacts and best understand the unique challenges of their region.

In my home State of Alaska, the coal regulatory program has regulated mining since 1983 and, together with Usibelli Coal Mine, our only operating coal mine, it has demonstrated that safe and responsible operations can be assured with minimal permitting delays. We have also seen the State of Alaska make good progress reducing its inventory of abandoned mine lands through the efficient use of federal AML dollars. This cooperative framework can also bring challenges. We have certainly seen some of those back

home. There is a fine line between appropriate oversight and unnecessary delays, second guessing, or duplication of work.

During the last Administration, we saw federal regulators slow walk or deny the approval of state permits. This has improved in the current Administration, but I think it is critical that we avoid backsliding in Alaska or really anywhere else. I have also heard concerns about the need to increase transparency and improve management of AML funds to ensure the program's goals are being accomplished as effectively as possible, especially as the economics of coal remain volatile.

Mr. Erdos, your experience is impressive. You started your career at a mine before working your way up through Ohio's Division of Mineral Resource Management first serving as a Reclamation Inspector, an AML Design Specialist and leading the Division as Deputy Chief and then Chief. The perspective that you have gained by working at an operational coal mine and then in multiple technical and leadership positions at the state level, I think, will be invaluable as you seek to balance between state and federal authority. Your reputation is very good on this issue. You are a known pragmatic regulator who has consistently promoted solutions that make sense for all sides.

If confirmed, and I am pretty confident that you will be, you will use your 31+ years of service to renew OSM's partnership with the states and to produce the energy resources that we need in a fashion that protects people and the environment.

So thank you, again, for being here today, and for your willingness to serve. I now turn to my colleague, Senator Manchin, and then we will go to Congressman Johnson, who will introduce Mr. Erdos.

**STATEMENT OF HON. JOE MANCHIN III,
U.S. SENATOR FROM WEST VIRGINIA**

Senator MANCHIN. Thank you, Madam Chairman, for holding this hearing on the nomination of Lanny Erdos to be the Director of the Office of Surface Mining Reclamation and Enforcement, which we refer to as OSMRE.

Thank you, Mr. Erdos, for your willingness to take on this very important task and for being here this morning and bringing your expertise to the table. I enjoyed meeting you in my office. We had a great conversation, talked about old home areas and have a lot in common.

The Office of Surface Mining Reclamation and Enforcement was created in 1977 by the Surface Mining Control and Reclamation Act. Any of us old enough to remember mining prior to '77, especially in the mountains of West Virginia, the way the mining was done at that time, there was no such thing as mountaintop removal, but there was strip mining. They would go around like peeling an orange, the peeling of an orange, and go around the mountain and basically leave whatever was left. They did not have to reclaim it or put it back to contour. They did not have to backfill it, make it look like it was before they got it. And then, basically, we never treated any of the drainage coming from some of the acid mines.

So all of this came in after SMCRA, which was much needed with the AML, abandoned mine lands. I remember it very vividly and I think it is much better. But then we have mountaintop coming in, that is a whole other challenge that we have.

The Act became law after six long years of exhaustive legislative consideration. It didn't just happen. It really had been needed for a long time, but it was really a fight because of the strength in the industry. Congress found that surface coal mining was creating disturbances to the surrounding terrain and impacting the welfare of communities, but it also recognized that mining coal was necessary to meet the nation's energy needs. And I have often said, there has to be a balance between the economy and the environment and that has to be basically predetermined before you go in.

So what is going to happen in post mine? A post mine, basically, is when you leave it, what is left and what can you do with it? That is why SMCRA was so important. Additionally, Congress recognized the need to replace the patchwork of state-by-state laws with a uniform federal standard, but one that recognized the need for a cooperative role with the states to successfully regulate coal mining within their individual borders. SMCRA was enacted to remedy these problems and to ensure that the nation could continue to mine coal to meet our energy needs without harming the health and safety of our citizens and the environment. What we basically said, if we couldn't do it in a safe and environmentally conscious way, don't do it. And we try to meet those balances. SMCRA places the primary responsibility for implementing and administering its programs in the hands of the Director of the Office of Surface Mining. It is a Director's job to protect the public and the environment from the effects of surface coal mining operations and to ensure that lands are restored to beneficial use when mining operations are finished.

Let me give you another example of how crazy this was. If there is mountain disturbances in West Virginia, sometimes, we have no flat land. You cannot even build a house, let alone build any type of manufacturing or industry. And then they came up with a plan. Well, fine, if you are going to do mountaintop removal, you have to put the mountain back. It makes no sense whatsoever. If you are going to do mountaintop removal, it should be done with the land that was needed after it was completed so we can use it and put it in commercial use because we had none. That is what we have been asking for and what you all have been responsible for.

Most coal states, including my own State of West Virginia, and several Indian tribes, now have their own surface mining and reclamation programs. The Director works closely with the state and tribal programs and provides them with technical assistance. The Office of Surface Mining helps train state and tribal professionals to ensure they have the skills needed to do the job and it works with colleges and universities to further reclamation science and develop the tools the states and tribes need to get the job done. Basically, what they have been doing is soil enhancement so they can replant, refurbish, do things of this sort where there is reforestation or agriculture and it has been very successful.

Although the Office of Surface Mining might appear small compared to some of the Interior Department's larger bureaus, the task

it has been given is enormous and it is critically important to coal states like mine and like Senator Barrasso's and to the nation as a whole, which has long benefited and continues to benefit from the coal that our states produce. The Office of Surface Mining is responsible for distributing money to the mine workers' combined health and benefit funds. I cannot stress enough how important this is to me and my state. That is why I am so proud that a fix to the Miner's Pension Fund and health care benefits is included in the year-end appropriation deals.

And what we are talking about, we are talking about the surplus funds. We are not talking about the primary funds that are needed to restore and refurbish the ground, but there are excess funds there and we have used them to the benefit of the people that mine the coal. Because of this, 82,000 current pensioners, 10,000 future pensioners and an additional 13,000 health care beneficiaries will not see their benefits gutted or eliminated next year. Everybody here has worked so hard on this, basically making sure that the Miner's Protection Act, the bipartisan Miner's Protection Act, passed. What we have been able to do in the last three years is protect almost 34,000 miners and their families with their healthcare and 92,000 miners and their families from getting their pensions absolutely gutted to the bone. It is unbelievable what was able to be done to save people in some of the most challenging areas of our country.

As you know, Mr. Erdos, the Office of Surface Mining has a very important role to play in this implementation. I understand you are the nephew of Babe Erdos, a member of the MWA International Executive Board. I have no doubt you understand the importance of making sure the necessary transfers take place and that we keep the promise made in the Krug-Lewis Agreement of 1946. Congress specified the employees of the Office must have the professional competence and capacity to administer the program, and I believe you do and you have that experience and integrity.

I believe Mr. Erdos plainly has the necessary competence and capacity. He spent 31 years working for Ohio's Department of Natural Resources. During that time, he worked as a Reclamation Inspector, an Abandoned Mine Lands Design Specialist, a Permitting Manager, Deputy Chief of the Mineral Resources Management Division and, finally, for eight years, as Chief of the Mineral Resources Management Division. For the past four months, he has served as the Principal Deputy Director, as the Acting Director of the Office of Surface Mining.

So again, thank you for holding this hearing, Madam Chairman, and we look forward to hearing from our appointee.

The CHAIRMAN. Thank you, Senator Manchin.

We are honored to have one of the Representatives from the 6th District, Ohio Representative Bill Johnson, come all the way over from the House side to introduce Mr. Erdos to the Committee this morning. We welcome you, and you may proceed. Thank you for coming over.

**STATEMENT OF HON. BILL JOHNSON,
U.S. REPRESENTATIVE FROM OHIO**

Mr. JOHNSON. Well, thank you, Chairwoman Murkowski and Ranking Member Manchin, members of the Committee. I appreciate the opportunity to be here this morning. As you might imagine, votes have been called on the House Floor, so I'm gonna try and get through this as quickly as possible, but I'm gonna give it its due diligence as well because I am very, very proud to introduce Mr. Lanny Erdos, a gentleman I've had the distinct honor of working with on many issues important to Eastern and Southeastern Ohio, where I represent.

Mr. Erdos has a well-earned reputation, as you pointed out, Madam Chairwoman, for being a hard-working professional, and I know he will do an excellent job as Director for the Office of Surface Mining Reclamation and Enforcement.

Before his work at the Department of the Interior, Mr. Erdos was the Chief at the Ohio Department of Natural Resources Division of Mineral Resources Management. This position involved a broad range of responsibilities including the management and regulation of Ohio's coal and aggregate resources as well as management of the Division's Abandoned Mine Lands, or AML, and Mine Safety Programs. This meant he managed Ohio's AML grant monies and projects utilized for reclamation and remediation of coal. He also oversaw Ohio's Mine Safety Program which is tasked with training, testing and certifying Ohio's mining workforce, as well as inspection of Ohio's mines to ensure compliance with Ohio's mine safety laws.

Mr. Erdos has worked with many stakeholders relevant to his nominated role of Director, such as the U.S. and Ohio Environmental Protection Agencies, U.S. Fish and Wildlife Service, U.S. Army Corps of Engineers, Ohio Aggregate and Industrial Minerals Association, Ohio Coal Association, Rural Action of Ohio, the Ohio Mideastern Governments Association and, of course, the Office of Surface Mining Reclamation and Enforcement. Mr. Erdos has also worked with industry and government representatives on various task forces created to address environmental concerns such as stream and wetland restoration and preservation, impoundment design, offsite effectment and remediation.

Throughout his 31 years of state service at ODNR, Mr. Erdos has done great work for the great State of Ohio and for our country. And I have no doubt that he will continue to serve the public in that same fashion as the Director for the Office of Surface Mining Reclamation and Enforcement. I therefore recommend him to your Committee for due consideration.

And with that, Madam Chairwoman, I yield back.

The CHAIRMAN. Thank you, Congressman. We appreciate the introduction, and we know you have a busy day over there. Good luck with things.

At this time, we will ask you, Mr. Erdos, to stand.

The rules of this Committee which apply to all nominees require that they be sworn in in connection with their testimony. So I would ask that you raise your right hand.

Do you solemnly swear that the testimony you are about to give the Senate Committee on Energy and Natural Resources shall be the truth, the whole truth and nothing but the truth?

Mr. ERDOS. I do.

The CHAIRMAN. You may be seated.

Before you begin your statement, I will ask you three questions addressed to each nominee who appear before the Committee.

Will you be available to appear before this Committee and other Congressional committees to represent departmental positions and respond to issues of concern to the Congress?

Mr. ERDOS. I will.

The CHAIRMAN. Are you aware of any personal holdings, investments or interests that could constitute a conflict or create an appearance of such a conflict should you be confirmed and assume the office to which you've been nominated by the President?

Mr. ERDOS. No, I do not.

The CHAIRMAN. Are you involved or do you have any assets held in blind trusts?

Mr. ERDOS. I do not.

The CHAIRMAN. You may proceed.

STATEMENT OF LANNY E. ERDOS, NOMINATED TO BE DIRECTOR OF THE OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT AT THE DEPARTMENT OF THE INTERIOR

Mr. ERDOS. Thank you.

Chairman Murkowski, Ranking Member Manchin and members of the Committee, thank you for the opportunity to appear before you today as President Trump's nominee for the position of Director of the Office of Surface Mining Reclamation and Enforcement, OSMRE. I would like to thank President Trump and Secretary Bernhardt for their confidence in me. I'm excited to be here today to share with you my vision for OSMRE. I also appreciate the opportunity to share with you my background, give you an idea about where I come from and provide insight into my professional career at the Ohio Department of Natural Resources, or Ohio DNR.

If I am honored enough to be confirmed, my 31 years of experience and public service at the Ohio DNR has uniquely prepared me for the position of Director of OSMRE. I have working knowledge and a specific experience in almost every aspect of OSMRE's mission. I began my career as an Environmental Technician primarily responsible for collecting field data and reviewing mine maps for accuracy. I was soon promoted to Reclamation Inspector where for seven years I was responsible for inspections associated with coal and industrial mineral mining. My responsibilities included ensuring that the coal operator was following the requirements of the Surface Mining Control and Reclamation Act of 1977, or SMCRA, and inspection of mining operation and reclamation activities.

I later transferred to the Abandoned Mine Lands program, or AML, as a design specialist. Working under the supervision of a registered professional engineer, I designed AML projects such as high wall backfills, subsidence caused by pre-law underground mining, coal refuse reclamation projects and stream restorations, to name a few. I've also been a Permitting Manager where my respon-

sibilities included oversight of all coal and industrial mineral applications.

In 2008 I was promoted to Deputy Chief responsible for managing the state's coal, industrial minerals and mine safety programs. My responsibilities included statewide management of nearly 1,000 permits and the protection, training and certification of the state's mining workforce. Three years later, I was promoted to Chief of the Ohio DNR. I maintained my Deputy Chief responsibilities and also assumed management of the AML program.

As Chief, I worked with federal partners such as the U.S. Environmental Protection Agency, the Office of Surface Mining, the U.S. Army Corps of Engineers and the Mine Safety and Health Administration as well as state and local partners such as state fish and wildlife, dam safety, forestry and engineering and higher education partners such as Ohio University and The Ohio State University. I also worked with local watershed groups. At the Ohio DNR, we funded numerous watershed coordinator positions throughout the eastern portion of the state. In connection with Ohio Rural Action we supported positions to assist with stream restoration projects and stream data collection.

From a personal perspective, I come from a very strong-willed, blue-collar background where family comes first. From a very young age my mother and father instilled into my brother, sister and me, the lessons that hard work is important, that it matters. They led by example and taught us this lesson through their own hard work.

My father worked for nearly 30 years in an underground mine, and it gives me great pride to tell you today that I am the son of an American coal miner. Although it was an incredibly difficult job, he enjoyed it as well as the life it provided his family. He worked rotating shifts but somehow he always managed to make it to my sporting events and there were many because I thought I had to play every sport imaginable, as did my brother. My sister's band and scholastic events were just as important to him. My mother worked as a cook at the local school and later in the county court system for one of the local judges. Like my father, she always managed to make it to the kids' events and still managed to have supper ready back in the days when families sat together around the table for every meal.

They both worked hard to support our family, and seeing that day after day stuck with me. I have tremendous respect for the men and women who mine the coal, that help to supply the country's energy needs like my son-in-law, who still, today, works in an underground mine in Pennsylvania. But I also understand the need to protect our lands and water. Striking that environmental balance, as I have tried to do for more than 30 years, ensures the protection of our natural resources and supports the country's energy needs.

If confirmed, it would be an honor to serve the citizens of this great country, President Trump and Secretary Bernhardt as Director of the Office of Surface Mining Reclamation and Enforcement. Thank you for today's opportunity, and I look forward to answering your questions.

[The prepared statement of Mr. Erdos follows:]

**Statement of Lanny E. Erdos
Nominee for the Position of Director
Office of Surface Mining Reclamation and Enforcement
United States Department of the Interior
Before the Committee on Energy and Natural Resources
United States Senate**

December 17, 2019

Chairman Murkowski, Ranking Member Manchin, and members of the Committee, thank you for the opportunity to appear before you today as President Trump's nominee for the position of Director of the Office of Surface Mining Reclamation and Enforcement (OSMRE.) I would like to thank President Trump and Secretary Bernhardt for their confidence in me. I am excited to be here today to share with you my vision for the OSMRE.

I appreciate the opportunity to share with you my background, give you an idea about where I come from, and provide insight into my professional career at the Ohio Department of Natural Resources (Ohio DNR).

If I am honored enough to be confirmed, my 31-years of experience and public service at the Ohio DNR has uniquely prepared me for the position of Director of OSMRE. I have working knowledge and specific experience in almost every aspect of OSMRE's mission.

I began my career as an environmental technician, primarily responsible for collecting field data and reviewing mine maps for accuracy. I was soon promoted to Reclamation Inspector, where for seven years I was responsible for inspections associated with coal and industrial mineral mining. My responsibilities included ensuring that the coal operator was following the requirements of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), and inspection of mining operations and reclamation activities.

I later transferred to the abandoned mine land program (or AML) as a design specialist. Working under the supervision of a registered professional engineer, I designed AML remediation projects, such as highwall backfills, surface subsidence caused by pre-law underground mining, coal refuse reclamation projects, and stream restoration to name a few.

I have also been a Permitting Manager where my responsibilities included oversight of all coal and industrial mineral mining applications.

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I also worked with local watershed groups. At the Ohio DNR we funded numerous watershed coordinator positions throughout the eastern portion of the State. In connection with our Ohio Rural Action partnership we supported AmeriCorps positions to assist with stream restoration projections and stream data collection.

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families sat together around the table for every meal. They both worked hard to support our family, and seeing that day after day stuck with me.

I have tremendous respect for the men and women who mine the coal that helps to supply the country's energy needs, like my son-in-law who still, today, works as an underground long-wall miner operator in Pennsylvania. But I also understand the need to protect our lands and water. Striking that environmental balance, as I have tried to do for more than 30-years, ensures the protection of our natural resources and supports the country's energy needs.

If confirmed, it would be an honor to serve the citizens of this great country, President Trump and Secretary Bernhardt as Director of the Office of Surface Mining Reclamation and Enforcement. Thank you for today's opportunity. I look forward to answering your questions.

The CHAIRMAN. Thank you, Mr. Erdos, I appreciate that and appreciate learning a little bit more about the family background. That is important.

I want to just speak to the Alaska specifics of our resource development. I know that you are familiar with it, but when we say that we are somewhat unique in terms of resource development and our regulatory framework, it actually turns out that we are. We have some of the highest electricity costs in the country and for many, coal is one of those low-cost energy sources for the state.

I mentioned in my opening statement, we have one coal producer. They have mining operations in a couple different locations, but it is basically one coal operator. Almost all of the coal now is used in state, so as we work through these state and federal partnerships, I think it is important that you just, kind of, keep that in mind.

One issue that I would like to touch on which is causing some concern is the potential bonding requirement changes. So if you could just share with me how you view OSM's role and process for setting up and approving bonding?

Mr. ERDOS. Thank you for the question, Senator.

So, as you're aware, there are many bonding instruments out there available to the various states and tribes as well as OSM. The primacy states essentially set the bond limits. They also determine those instruments. And there are 24 primacy states, 23 of those states, I believe, are actually mining coal today. So OSM's role is to oversee those bonding requirements for each one of those states, to work with the state regulator relative to what those bonding requirements look like and to ensure that there is sufficient bond to ensure reclamation.

What I can say to you at OSM, if I'm fortunate enough to be confirmed, I certainly would not, coming into the job—come into the job looking to change anything that's currently working.

The CHAIRMAN. Well, I appreciate that. I would welcome you to come up to the state and have that opportunity to talk to folks yourself. What I would ask this morning is that you would commit to work with me, my office, and consider, again, these unique aspects of Alaska's coal operations and regulations to ensure that any of the changes that could be made to bonding requirements in the Lower 48 are then workable within the state.

Mr. ERDOS. So again, thank you for the question, Senator. I certainly would enjoy doing that. And if I'm fortunate enough to be confirmed, I'm looking forward to coming back to Alaska. I've been there once.

The CHAIRMAN. Yes.

Mr. ERDOS. And I certainly would love to come back.

What I will say is any changes, and again, I'm not looking to change anything at this point, any change would have to work for all the states, certainly including Alaska.

The CHAIRMAN. I appreciate that.

The AML fund has been touched on here in opening statements. In Alaska we have about \$44 million in remaining high priority AML projects. I think we are making some good progress in the state, but I have heard some concerns about the lack of progress made on the AML inventory nationally when compared against

amounts that have been paid into the fund. I think we all recognize that there is a very dynamic nature to the list. You have some projects that are added while others are completed.

How can OSM ensure that the coal producers and their customers as well have confidence that there is a plan to complete the identified projects efficiently and that this inventory list just does not represent, kind of, this never-ending goal?

Mr. ERDOS. Well again, thank you for the question and that's a very, very good question. So I spoke to in my opening statement relative to the AML program and I, in actuality, I spent about two-thirds of my career working in the AML program back in Ohio. So it's a very important program. I certainly get that.

Back in Ohio under my tenure as Chief, we completed 242 health and safety projects and 217 emergency projects at a cost of about \$46 million. And I have certainly read the articles, the same articles I'm sure that you've read, Senator, relative to the numbers and what those numbers look like. So with that being said, I recognize when I came on board three and a half months ago at OSM that that was an issue that we needed to address.

So within the first two weeks I sat down with staff to talk about how we represent those numbers. What do those numbers look like on our webpage? Are they accurate? I've been very pleased with the progress we've made. We're working with our stakeholders like the Interstate Mining Compact Commission, relative to making sure that the numbers that are shown on our webpage represent true numbers relative to the cost of construction, design, administrative costs, those kind of things.

And one of the concerns that, certainly, I had the same concern as a hired regulator was administrative cost. When I looked at those numbers, the actual administrative cost is around seven to eight percent which is a very good number when you start talking about administrative costs associated with a \$10 billion program. So we're going to continue to work on that.

We have a system to track projects. It's called e-AMLIS. It's the electronic Abandoned Mine Land Inventory System. It's a dynamic system. It changes all the time. States input data. We verify the data is accurate. We verify that, in fact, that project that was input into the system is, in fact, eligible as an AML project. So it is a number that does move up and down. Certainly we're going to continue to work with the states to ensure that's accurate.

One of the things I would really like to do if I'm confirmed is sit down with our stakeholders and talk about the AML program, talk about appropriations, talk about unappropriated dollars and what those look like and how we can best, together, move forward relative to the AML program.

The CHAIRMAN. Thank you very much. I appreciate that detail. Senator Manchin.

Senator MANCHIN. Thank you very much.

Mr. Erdos, as you know, the transfer of the excess funds into the United Mine Workers Retirement Fund is the lifeblood of what we are trying to accomplish right now with all the backlog that we have. The only thing I would ask is that you commit to ensuring the timely and uneventful transfer of these funds as directed by

Congress, as we voted on. So your commitment to that is essential to what we are doing right now.

Mr. ERDOS. So, Senator, I'm aware. We talked about this when we met in your office, and I certainly understand the importance of legislation. What I have said, and I believe I shared this with you, is I'm working with my staff relative to what those numbers represent—

Senator MANCHIN. Yes.

Mr. ERDOS. —and what it means as far as AML distribution. I'm certainly willing to continue to work with you on what those numbers represent. I'd like to get briefed by my staff. I realize there's Treasury money and interest money relative to AML.

Senator MANCHIN. Well, let me just say, the number that we have is about \$10 billion in backlog, \$10 billion with a B. But the majority of that is due to pre-SMCRA, as I talked about how the land was left before that. We are going back and doing water projects which, I think, the most critical thing we can do for the Clean Water Act is to make sure we are cleaning up these water problems that we have in a lot of the underground mines that have acid mine drainage.

But with that, do you have a way to address the reclamation state-by-state to produce to exactly where we are post-SMCRA versus pre-SMCRA so we can really see what are the commitments we have and the obligations we have?

Mr. ERDOS. So, we do, Senator, we're working on that. Again, it's tracked through e-AMLIS which certainly is not the, we don't believe it's the best mechanism to track what you're looking—

Senator MANCHIN. Yes, I don't know, I cannot tell you exactly to the penny in West Virginia how much has been associated pre-SMCRA and how much do we still have ongoing for after SMCRA passed in '77.

Mr. ERDOS. So, what I would, what I would commit to, Senator, I'll go back and work with our staff relative to that. But yes, we do track it. I'm not overly confident in some of those numbers. We're working on a new system to track AML—AML projects pre-SMCRA, AML liability post-SMCRA.

Senator MANCHIN. Yes.

Mr. ERDOS. So certainly, I'm willing to go back and look at those numbers and look forward to working with you.

Senator MANCHIN. Here is another challenge that we have that is the purpose of the AML. The Abandoned Mine Lands program is due to expire 2021. It will be under your tutelage, if you will. With that expiring—right now it takes \$0.28 of every mine, every time a coal mine on surface and I think \$0.12 underground.

How do you look at these fees? There is going to be a lot of pressure from the industry, all this is costing us and it does not cost them a penny. It has been built into the mix for many, many years, but no different than what they did with the Black Lung Fund. They have cut it from a \$1.10 to \$0.55. And at the time, I said, you are telling me then by cutting the fund and the money that we need to fight this disease, that you found a cure? If anything, we have more younger miners contracting Black Lung than ever before. So I would like to know what your commitment would be toward continuing the AML fund?

Mr. ERDOS. Well, certainly Senator, and thank you for the question, Senator. I am well aware of the legislation that's out there presently relative to AML reauthorization. I spoke to AML in my opening statement and the importance of AML and the fact that I've worked in the AML program for over 20 years. So I certainly understand the importance of the program.

I want to continue to work with my staff and am certainly committed to working with you, Senator, relative to reauthorization.

Senator MANCHIN. Let me throw this one at you, okay?

In 2015 the Office of Surface Mining partnered with the National Academy of Sciences to study the health impacts of mountaintop removal mining to surrounding communities. Shortly after the Trump Administration came into office, the study was canceled. I have come around. I have come around on utilizing mountaintop removal methods, and I think the method has exceeded its useful life. So what are your thoughts on mountaintop mining? Do you believe that there is a continuing need for science-based data on the health impacts of mountaintop mining that the canceled study was meant to provide and do you have any intentions in reviving this?

Mr. ERDOS. Thank you for the question, Senator.

So we talked a little bit about this, I believe, when we got together. I'm aware of the study, the National Science Academy study, relative to mountaintop removal. So I am aware of it. It was, I think it was initiated in 2016 and was canceled in 2018, long before my time at OSM.

Senator MANCHIN. Yes.

Mr. ERDOS. As a state regulator, I was aware that it was going on when I was in Ohio, but really not much beyond that. I certainly haven't looked at any data associated with it or any narrative associated with that study. I haven't been briefed by staff relative to that.

Senator MANCHIN. The only thing I can ask you to do, if you would, would you find out, when they canceled the study, did we already have the study completed or is it incomplete and what are the findings to date? Where do we stand on that and what have they found relevant to mountaintop that would be in the health and welfare of the people that live around it?

Mr. ERDOS. So, certainly I'd be willing to go back and look at that, Senator—

Senator MANCHIN. We can make a determination if we think it needs to be continued or not, and then we will go from there in Congress. But we need to have the facts on that, if you can.

Mr. ERDOS. So again, I'm just not familiar with it—

Senator MANCHIN. Yes.

Mr. ERDOS. —relative to the study itself.

Senator MANCHIN. We will work with you if you will work with us on that.

Mr. ERDOS. I'm certainly willing to work with you, Senator.

Senator MANCHIN. Give us the study, where it stopped, yes.

Mr. ERDOS. Absolutely.

Senator MANCHIN. Okay, thank you, sir.

The CHAIRMAN. Thank you, Senator.

Senator BARRASSO.

Senator BARRASSO. Thank you, Madam Chairman.

Well first, I want to thank you, Madam Chairman and Ranking Member Manchin, for holding this important hearing today. Wyoming has led the nation in coal production for decades. Our local economy relies heavily on the jobs and the revenue that the coal industry provides. We are proud to provide the nation with a reliable and affordable source of energy generation.

Mr. Erdos, I enjoyed having time to visit with you last month. We covered quite a few topics. I have heard good things about you from folks in Wyoming. In fact, I have a letter right here from Todd Parfitt, who is the Wyoming Director of the Department of Environmental Quality and, Madam Chairman, I would like to submit this for the record.

The CHAIRMAN. It will be included.

Senator BARRASSO. Thank you, Madam Chair.

[Letter from Todd Parfitt follows.]



Mark Gordon, Governor

Department of Environmental Quality

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



Todd Parfitt, Director

December 16, 2019

David L. Bernhardt, Secretary of the Interior
Department of the Interior
1849 C Street, N.W.
Washington DC 20241

RE: Nomination of Lanny Erdos for Director of the Office of Surface Mining and Reclamation Enforcement

Dear Secretary Bernhardt:

On behalf of the Wyoming Department of Environmental Quality (WDEQ), I support the nomination of Lanny Erdos to serve as the Director of the Office of Surface Mining and Reclamation Enforcement (OSMRE). WDEQ is responsible for implementing federal requirements for reclamation of abandoned mines and active coal mining as delegated under Title IV and Title V of the Surface Mining Control and Reclamation Act (SMCRA). In the spirit of cooperative federalism envisioned in SMCRA, WDEQ partners closely with OSMRE for both of these programs. Consequently, it is of great importance and interest to Wyoming that this key position be filled with a strong professional leader with a solid background in mining and reclamation programs. Based on my experience working with Mr. Erdos, I am confident he possesses the necessary traits to successfully implement SMCRA in a collaborative manner with states.

Mr. Erdos has developed a strong base of understanding of SMCRA and OSMRE through his many years with the State of Ohio. He contributed extensively in efforts to work through and address the many challenges facing state programs and OSMRE. His participation in these areas has confirmed his ability to objectively analyze and consider inputs from all points of view. This has also been clearly demonstrated through his participation on the Interstate Mining Compact Commission (IMCC) board of directors. He listened and participated in discussions on all issues, encouraged the participation and input from other members and offered well-reasoned opinions.

Mr. Erdos's understanding of the intersection of federal and state law, and on the ground implementation of those laws is key to the successful administration of SMCRA. He has demonstrated his clear knowledge and understanding of the appropriate roles of federal and state authorities in implementing SMCRA. This understanding of the relationship between state and federal partners is a critical attribute as the states and OSMRE work collaboratively to embrace the key principles of cooperative federalism.

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December 16, 2019
David L. Bernhardt, Secretary of the Interior
Page -2-

For these reasons, the WDEQ supports the confirmation of Lanny Erdos as the Director of the Office of Surface Mining and Reclamation Enforcement.

Sincerely,



Todd Parfitt
Director

cc: Chairman Murkowski
Ranking Member Manchin
Senator John Barrasso
Senator Mike Enzi
Congresswoman Liz Cheney
Governor Mark Gordon
Tom Clarke, IMCC

Senator BARRASSO. Under the Surface Mining Control and Reclamation Act, SMCRA, states are the primary implementers of the Abandoned Mine Lands program. Can you elaborate on your understanding of cooperative federalism and the role the states play as the primary implementers of SMCRA?

Mr. ERDOS. Thank you, Senator, very good question.

So our role at OSM is oversight of the state regulatory authority, the programs, the primacy states across the country and, again, there are 24 primacy states across the country. So we are working very closely with those regulatory authorities. They are the regulatory authority (RA) within their state. And when it's appropriate, certainly, we will defer to states relative to that authority.

But with that being said, we work very closely. We have a close relationship with all the states. I represented Ohio on the Interstate Mining Compact Commission for over a decade and I developed relationships with all the RAs across the country, including Todd. So, we have a very good relationship, work very closely together.

Senator BARRASSO. So talk a little bit more about how you envision this oversight role that you talked about from OSM over the states as they implement SMCRA locally?

Mr. ERDOS. So again, our role is one of oversight. The process of, actually enforcement is, that's a role of the regulatory authority. The permitting process, the application process, again, is that's under the authority of the regulatory authority which in this case would be state, the primacy state. So we work very closely with those folks. We developed a relationship. We have relationships with all the states that have primacy in regard to our oversight program but we work with them. It's one of cooperation.

Senator BARRASSO. I believe you are well-suited to serve as Director, having served as the Chief of the Ohio Department of Natural Resources and as an active member of the Interstate Mining Compact Commission. How will your experiences in these organizations influence your decision-making as the Director of OSM?

Mr. ERDOS. So one of the things that I've learned over the years is that communication is very important which everyone on this Committee fully understands. If you're not communicating, you're not moving forward. So I have a relationship with the folks across the country as a result of my time with the Interstate Mining Compact Commission. So we're gonna continue, I'm going to continue, to foster those relationships. We're gonna have, we're gonna continue to have conversations relative to regulation of the SMCRA permits across the country. So I'm very excited about the opportunity, if I'm fortunate enough to be confirmed, to do that with the states.

Senator BARRASSO. When we met last month, we discussed the need for OSM to advance programmatic amendments. Wyoming cannot finalize our own rules to our AML program without this, and we mentioned we have been waiting since 2014 for these amendments to be finalized. Will you commit to finalizing these programmatic amendments as soon as possible?

Mr. ERDOS. So Senator, one of the first things I did when I came aboard with OSM is I sat down with our staff. We had the conversation relative to program amendments. I recognized we had a

backlog of 45 at OSM. Ohio has eight. So I knew coming in that it was an issue and certainly I understand the importance to the states. And I can assure you that we are gonna move those through the system.

It's important to the states, and it's important to OSM that we do that and certainly make that commitment to review the program amendments timely. I've been working with staff relative to the process that we use, the system that we use in making modifications to that to make sure that it is timely.

What I can say now, we have probably 35, I believe, left to review and approve, and we're working through those as quickly as we possibly can.

Senator BARRASSO. How are OSM and states improving the assessment of abandoned mine land sites? What technologies are you using to modernize the process?

Mr. ERDOS. So, what we're doing again, is, and again I'll talk to cooperation with the states. We work with the states very closely relative to identifying those sites that meet the requirements under SMCRA relative to AML sites. We're using e-AMLIS. We're also looking at putting together a new database to track, to actively and accurately track AML projects and the costs associated with those.

Senator BARRASSO. Thank you, Madam Chairman.

The CHAIRMAN. Thank you, Senator.

Senator Heinrich.

Senator HEINRICH. Thank you, Madam Chair.

Mr. Erdos, as you probably know, OSMRE lost a series of court cases back in 2015 and 2016 with regard to analyzing the impacts of climate change where the courts found that the agency failed to look at those impacts and the impacts of its individual decisions on climate. Can you commit to complying with the law and fully considering climate impacts in OSMRE's permitting decisions moving forward?

Mr. ERDOS. Thank you, Senator.

So what I will say is I agree the climate is changing.

Senator HEINRICH. I did not ask that.

Mr. ERDOS. Okay, I'm sorry.

Senator HEINRICH. I am asking if you will commit to implementing what the court ruled and analyze the impacts of climate in the permitting decisions that OSMRE makes moving forward.

Mr. ERDOS. So, thank you, Senator.

So we do that every day. So part of what we do is science-based and part of that science includes looking at climate. And as I said, I certainly agree that it's something that we need to look at. So we are doing that.

Senator HEINRICH. It's—so, maybe I am not being clear. I am just asking if you will commit to analyzing the impacts of your permitting decisions on climate moving forward as the courts ruled? Will you commit to complying with the court ruling?

Mr. ERDOS. So what I will say, Senator, is that, again, we do look at climate.

Senator HEINRICH. You cannot commit to complying with what the court ruled?

Mr. ERDOS. So, at OSM—

Senator HEINRICH. That seems like a pretty low bar.

Mr. ERDOS. So at OSM our job is to comply with the law, Senator. So that law requires us to ensure that the requirements of SMCRA are being met. And what I am committing to you is we will continue to do that using the best available science.

Senator HEINRICH. OSMRE is also responsible for making sure that the Kayenta mine on the Navajo Nation, which recently ceased mining operations, is fully and safely reclaimed before being returned to the Navajo Nation. It is important that this work be completed in full consultation and collaboration with the Navajo Nation and that the communities in the vicinity of the mine have confidence that their air and their water are being protected.

Can you commit to ensuring the full and safe reclamation of the Kayenta mine area in direct consultation with the Navajo Nation?

Mr. ERDOS. Thank you, Senator.

So certainly we're going to ensure that all reclamation is done relative to any permit that meets requirements of SMCRA that's associated with that permit. So we will certainly, we will certainly do that. We will ensure that reclamation is completed per the SMCRA permit.

Senator HEINRICH. And what about consultation with the Navajo Nation?

Mr. ERDOS. So I'm certainly, again, I talked about communication. I think communication is important.

Senator HEINRICH. I did not ask about communication. There are legal requirements for consultation with tribal governments.

Mr. ERDOS. So certainly, Senator, we will follow the law and we will certainly make sure that we have those communications with the tribes.

Senator HEINRICH. Okay.

Mr. Erdos, I have got to say, I think you are making this a lot harder than it needs to be.

Senator MANCHIN. If I can just add one thing? And I think it might help a little bit, Senator.

If you are a mining company, you have to pay a bond. You put up a bond for any land and then basically you pay a fee on top of that that goes into AML. Your office has a discretion not to release that bond back to the company, and they can be held liable if it has not been done to specifications.

Think what the Senator is saying. Are you enforcing that? Do you have enough enforcement powers and are you willing to basically enforce SMCRA law and basically putting the land back, if not as good, better than what they started mining with? A lot of times it can be done, whether it be trout streams or whatever. They can improve the quality. But if they do not do it, then you have the ability to basically keep that bond, forfeit that bond that they had and they get no reimbursement whatsoever. Is that correct?

Mr. ERDOS. So that's correct, Senator, on states where OSM has regulatory authority. We work with the regulatory authority in the primacy states to ensure the bond is not released, if it's not reclaimed further—

Senator MANCHIN. How about the tribal law, from tribal law?

Mr. ERDOS. Tribes as well.

Senator MANCHIN. Do you have oversight on tribal land?

Mr. ERDOS. We do.

The CHAIRMAN. Thank you.

Senator King.

Senator Manchin, do you have further questions for Mr. Erdos?

Senator MANCHIN. I think what everyone would like to know is that sometimes maybe the White House might be going, the Executive Branch might be going in a little bit different direction than what the law tells us that we must do and have to do. And with that, you have to have the will and the fortitude to be able to say this makes no sense whatsoever.

All we are saying, and I have always said this, and I have been in some tough situations in mining in West Virginia. I lost my uncle. I have lost a lot of my friends to mining accidents. I have seen it done right, and I have seen it gone horribly wrong. What we are asking, we are depending on your agency to make sure that we do it right and make sure that you enforce it. I have never seen a good operator that had not taken that initiative, even gone further. But I have seen a lot of people on the fringes willing to cut corners. That is what we need to make sure that you are able to do and have the resources to do that, and openly report back to us to see if you need additional legislation that will give you more enforcement powers.

The CHAIRMAN. Thank you, Senator.

Senator Lee.

Senator LEE. Thanks so much, Madam Chair and Mr. Presiding Member.

Mr. Erdos, thank you for joining us today. Could you walk us through the process that one would have to go through in order to obtain a surface mining permit?

Mr. ERDOS. So thank you for the question, Senator.

So if I were to explain that to you in its entirety, it would take us about an hour. So it's a very complicated process. They have to submit, obviously, an application. But before they submit the application, there's 12 to 24 months of background data that's required that they have to, they have to submit to the regulatory authority, or where OSM has regulatory authority, to OSM. So it's a very long process. I'm gonna speak to, if it's okay, I'm going to speak to my time in Ohio as a regulator on how we went through that process.

So the application, the applicant submits an application to the State of Ohio, in this case, and we review it. So that review process—hydrology, topsoil, water quality, reclamation, those kind of things—is all completed. It's a very complex, time-consuming process. It generally takes anywhere from, in Ohio, two to three years to obtain a permit. So it's a very long, challenging, complicated process.

Senator LEE. On average, how much time does Department of the Interior spend conducting a NEPA analysis?

Mr. ERDOS. So thank you for that question, Senator.

So that's one of the things when I came onboard that I had to take a step back because it was taking six to ten years, roughly, on federal lands to achieve, for an operator to receive a permit to mine coal. So one of the things that's occurring today is BLM and OSM are working together relative to the NEPA process.

Prior to that there was a process where we had BLM doing their NEPA review and at OSM we were doing ours. It was separate and certainly it's duplicative, taking far too long. So what we're doing today is we're working together. So BLM and OSM are working together, going out into the field together relative to environmental assessments, and we're also meeting in the office to discuss those environmental assessments. So it's certainly reduced the time relative to permitting.

Senator LEE. It seems to me that one of the things that has happened in that process with it taking six to ten years within that window, that is a pretty broad window and it creates a lot of uncertainty, not knowing whether or when the project will finally be completed—certainty is, very often, what someone like a mining company would need most, would be certainty.

There are other countries, other, sort of, peer nations that have pretty good environmental track records, pretty protective environmental laws, for example, Canada, Australia, just to name a few, where you do not see any disrespect for the environment, you do not see the land being destroyed or hazardous conditions being created, but you do have a process that is relatively predictable.

In the end, the uncertainty in the length of time expands the cost and while it is easy to be unsympathetic toward a cost if you are looking at what you perceive as a large mining conglomerate of some sort, but ultimately the folks who own that end up, in many cases, being teachers, pensioners, people who invest in the company. And perhaps, more acutely they, the people who end up getting affected by it are consumers who find that everything they buy—so many of the things we buy today have something in them that at some point was mined, was taken out of the ground or was produced using something that was taken out of the ground—they find everything they purchase more expensive as a result.

What changes would you suggest that Congress consider in order to address this problem, in order to make sure that the NEPA process on the one hand balances environmental concerns and takes those into account while balancing them also with the need for commonsense regulatory reform?

Mr. ERDOS. Thank you, Senator.

So what I would say is I think we're doing a pretty good job today relative to working with our sister agency at BLM in regard to the NEPA process. It's a process we're going to continue to use, and I've made that statement to our folks. It's a new process. It hasn't been done before. We're going to continue to do it.

My expectations are that we're gonna reduce the timeframe associated with permitting from six to ten years to two or less. So we're heading in, we're certainly headed in the right direction. I've talked to my counterparts at BLM, and we've both committed to—this is a process that we have to continue. This is the process we have to continue to work together on to reduce timeframes relative to permitting.

But at the same time, we're also ensuring protection of the environment. We have two sets of eyes looking at these areas relative to environmental assessments. I'm very confident that timeframes will be reduced, streamlined, and at the same time, we're gonna ensure that the environment is protected.

Senator LEE. Madam Chair, I have one more question I would like to ask, if that is okay? Thank you.

The Surface Mining Control and Reclamation Act, SMCRA, allows states to take the lead on issuing coal mining permits with limited OSMRE oversight. When OSMRE sees a violation or receives a complaint, my understanding is that it has the authority then to issue a 10-day notice. State regulators are then expected to investigate the issue, follow up on it and if the state fails to act, OSMRE can issue a notice of violation or, as a last resort, can take over either all or part of the state's coal mine regulatory program. Have I got that right so far?

Mr. ERDOS. You do.

Senator LEE. The Obama administration issued guidance to expand the use of 10-day notices in instances where a citizen complaint, "establishes a reason to believe that a violation may exist." The Trump administration has since rescinded that use and has said that there is an upcoming proposal that will allow greater deference and flexibility.

Now the 10-day notice seems to be a tool that can be weaponized by administrations that do not like coal and want to harm the industry. What do you feel would be the proper use of a 10-day rule?

Mr. ERDOS. So currently at OSM we work very closely with the states relative to the 10-day notice process. We generally give the states, if we get a call from a citizen relative to a complaint, we'll have a conversation with the state relative to that complaint, give the state the opportunity to address whatever that complaint may be, to do the investigation and report back to us. Obviously, if the citizen complaint is valid, then certainly the expectations are enforcement actions will be taken by the state.

And if it's not taken by the state, then certainly, OSM has the authority to take enforcement action at the federal level, if necessary. We certainly haven't seen many cases where that has happened. Again, we have a good relationship with the states. They work very closely with us. So, the process, the process is certainly working. It's a tool that we have in our tool chest at OSM, but we certainly, certainly like to work with the states when that's an option.

Senator LEE. Thank you so much. I really appreciate it.

Thank you, Madam Chair.

The CHAIRMAN. Thank you, Senator Lee.

I have several letters that have been received by the Committee that will be included as part of the record here this morning in support of you, Mr. Erdos—one from the Rural Action, one from the Ohio Aggregate and Industrial Minerals Association, the Department of Environmental Quality in Wyoming, and a letter from Ohio University as well as the Ohio Department of Natural Resources. Those will be incorporated as part of the record.

[Letters of support follow.]



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December 13, 2019

Energy and Natural Resources Committee Office
304 Dirksen Senate Building
Washington, DC 20510

Re: Nomination for Lanny Erdos for the position of Director of OSMRE

Dear Chairperson Murkowski and Ranking Member Manchin,

I respectfully write in support of the nomination of Lanny Erdos to become the next Director at the Office of Surface Mining Reclamation and Enforcement. As the Director of Environmental Programs at the Voinovich School of Leadership and Public Affairs at Ohio University, I have had the pleasure of working in partnership with Lanny on abandoned coal mining reclamation in Ohio for many years while he was Chief of the Ohio Department of Natural Resources Division of Mineral Resources Management. Lanny proved to be a strong proponent of data driven decision making to achieve results from cleanup of abandoned mines in Ohio.

Lanny has long supported the work of the Voinovich School in the coal-bearing of Ohio to reclaim abandoned mine lands, treat acid mine drainage from abandoned mine discharges, provide funds for a data management platform called watersheddata.com where watershed professionals have access to store data, analyze data trends, and share management and maintenance information on each of the 65+ acid mine drainage treatment systems. Lanny has also supported the Voinovich School to produce the data-driven Stream Health report for Ohio watersheds supported by reclamation funds from ODNR Division of Mineral Resources. This report highlights the biological recovery and improving chemical water quality trends in five major Ohio watersheds impacted historically from acid mine drainage. A key success story is the Raccoon Creek Watershed, a 112-mile long creek meandering across 6 counties in southeast Ohio. Over the past 20 years, 82 miles of stream that previously didn't meet OEPA's biological attainment status of warmwater habitat now meet or exceed this target. This is a tremendous outcome from the partnership of ODNR Division of Mineral Resources Management, Ohio University, Ohio EPA, and Raccoon Creek Partnership. This successful recovery story would not have been possible without the guidance and support from Lanny and ODNR Division of Mineral Resources Management personnel.



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In my experience in working with Lanny he has been a strategic decision maker, level-headed, and thoughtful in his approach. I believe Lanny would make an exceptional director of OSMRE and continue this successful track record he has accomplished in Ohio across all states impaired by mining. I strongly recommend Lanny for this important position. Please don't hesitate to contact me if you have further questions.

Sincerely,

Jennifer Bowman
Director of Environmental Programs
Voinovich School for Leadership and Public Affairs
Ohio University
BLDG 22, The Ridges
Athens, OH 45701



Ohio Department of Natural Resources

MIKE DeWINE, GOVERNOR

MARY MERTZ, DIRECTOR

December 12, 2019

Chairman Lisa Murkowski
U.S. Senate Committee on Energy and Natural Resources
304 Dirksen Senate Building
Washington, DC 20510

Dear Chairman Murkowski and the Members of the U.S. Senate Committee on Energy and Natural Resources:

I am honored to present this letter in support of Mr. Lanny Erdos for the position of Director of the Office of Surface Mining Reclamation and Enforcement.

Mr. Erdos served as Chief of the Ohio Department of Natural Resources' Division of Mineral Resources Management for more than eight years with utmost professionalism and respect for not only his position but also his colleagues and constituency. Lanny served at the pleasure of many governors and directors during his thirty-one years with the Department, always committed to fulfilling the agency's mission of ensuring a balance between the wise use and protection of Ohio's natural resources for the benefit of all. His knowledge of mining and environmental issues paired with his strengths in communicating with the general public make him a perfect candidate to fill this important position within the Department of the Interior.

I fully endorse Mr. Erdos' nomination. Please let me know if you require any further information.

Sincerely,


Mary Mertz
Director



OHIO AGGREGATES & INDUSTRIAL MINERALS ASSOCIATION

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Chairwoman Murkowski
Ranking Member Manchin
U.S. Senate Committee on Energy and Natural Resources
304 Dirksen Senate Office Building
Washington, D.C. 20510

December 12, 2019

Ohio Aggregates and Industrial Minerals Association (OAIMA) Letter of Support for confirmation of Lanny E. Erdos as Director of the Office of Surface Mining (OSM) Reclamation and Enforcement, Department of the Interior.

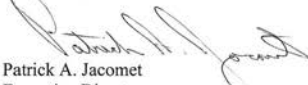
It is with strong conviction that we urge the support of the committee for the confirmation of Mr. Erdos to the position of Director of OSM. Mr. Erdos formerly served as a Chief in the Ohio Department of Natural Resources where he oversaw the Industrial Minerals, Coal, Abandoned Mine Lands and Safety programs for nearly eight years. During his time as Chief, we worked very closely with Mr. Erdos and his staff at ODNR and feel confident in our endorsement for his confirmation as Director of OSM.

Throughout our many interactions with Mr. Erdos, we found him to be very knowledgeable, thorough, and reasonable. While there were occasions when we disagreed with Chief Erdos, we always respected his willingness to reach out to stakeholders and listen to all sides of the issue before making his decision. In particular, it was evident he knew how to work with his staff and that his staff supported him.

In addition to his experience and qualifications, his leadership and involvement with the Interstate Mining Compact Commission, provides a broad base of contacts and relationship encompassing mining activities across the United States.

Given the above, we strongly urge your support and the support of the entire committee in confirming Mr. Lanny E. Erdos as Director of the Office of Surface Mining, Reclamation and Enforcement.

Please feel free to contact me if I can be of further service,
Respectfully,


Patrick A. Jacomet
Executive Director

President Lynn O. Radabaugh, MGQ Aggregates, Inc. - **First Vice President** Bradley H. Belden, The Belden Brick Co.
Immediate Past President James M. Meckstroth, Barrett Paving Materials, Inc



Rural Action

Senator Lisa Murkowski, Chairwoman
 Senator Joe Manchin, Ranking Member
 Senate Energy and Natural Resources Committee
 United States Senate
 Hart Senate Office Building
 Washington DC 20510

December 12, 2019

Dear Chairwoman Murkowski and Ranking Member Manchin,

I am writing to share my strong support for the confirmation of Lanny Erdos to serve as the Director of the U.S. Office of Surface Mining. I worked as a community partner with Mr. Erdos when he served as Chief of the Division of Mineral Resources Management (DMRM) in Ohio, and have found him to be knowledgeable, professional, and a solution-oriented public servant.

Rural Action is a non-profit organization in rural Ohio. We do asset-based community development in our region. As part of our work, our watershed program has partnered with the Ohio Department of Natural Resources, DMRM to restore more than 90 stream miles by mitigating the impacts of pre-regulatory mining. Our partnership has made this possible, and Mr. Erdos' leadership has enabled both Rural Action and DMRM to accomplish more than either of us could have done alone.

Because of the importance of this partnership to achieving our goals, in 2018 Rural Action was proud to award the Ohio Department of Natural Resources Division of Mineral Resources Management with our **Sustainable Partner** award.

Furthermore, under Mr. Erdos' leadership, Ohio has done an exceptional job utilizing the PILOT funds awarded to the state. The projects underway in Ohio have tremendous economic development potential for our state, and are also addressing health and safety impacts of pre-regulatory mining. One of these projects is creating a marketable commodity from the iron oxide being cleaned from impacted streams. This innovative project will create jobs, restore seven stream miles, and reduce the costs of treatment for a local public drinking water system.

Lanny Erdos did an excellent job for Ohio, and while we'll miss him here, the nation will benefit with him serving at the Office of Surface Mining. This kind of leadership, that builds working partnerships and solves real problems on the ground, is needed in our country, which is why I believe Lanny Erdos is an excellent individual to lead the Office of Surface Mining.

I would be happy to elaborate or answer any questions you may have. You've got a great nominee before you, and I strongly support him for the position.

Sincerely,



Debbie Phillips
 Chief Executive Officer

The CHAIRMAN. Mr. Erdos, thank you. I appreciate, as I said at the outset, your willingness to serve in this capacity. You clearly come with years of experience in the field, a practical approach that, I think, serves us well in a regulatory environment. So I thank you for your willingness to come before the Committee and answer questions. If other members of the Committee have questions that they would like submitted, they will be included in the record and we hope that you would be able to respond to those in a timely manner.

But based on what I have heard this morning, my hope is that you will move quickly through the process. Although I will just note the obvious that on a Tuesday of the week that we are set to be closing down here before the end of the year, you are probably not going to get your name to the Floor for a vote before the Christmas holidays and the New Year. But it is something that I would hope with Senator Manchin we can process quickly come the New Year.

So we thank you. Thank you for your willingness to serve, and we wish you well.

Senator MANCHIN. I only had to say that I appreciate you bringing your expertise and your experience level to the people that really build America and your father and your family being one of them, and I appreciate that and respect that very much.

I was born and raised in the coal fields at some of the deepest coal mines at Pittsburgh, same as we mined, and up your way also, so we both know that tradition and the culture. And with that, they have a right to be protected and they have a right to make a living but they also have a responsibility as the owners to do it in the most prudent way and the most efficient way and the safest manner and with the most concerns about what we leave behind.

I think your office has that responsibility to make sure that they fulfill that. We are here to help and work with you, and I will enjoy working with you and your staff. I think we laid out some of the things we have concerns about. My staff will follow up on that with you, and I look forward to supporting you in this endeavor.

Thank you and Merry Christmas to everybody.

The CHAIRMAN. Thank you, Senator Manchin.

With that, Mr. Erdos, again, thank you and the Committee stands adjourned.

[Whereupon, at 11:03 a.m. the hearing was adjourned.]

APPENDIX MATERIAL SUBMITTED

**Senate Committee on Energy and Natural Resources
Hearing on the Nomination of Lanny Erdos
December 17, 2019**

Questions from Senator Hirono

Question 1. As part of my responsibility as a member of the Senate Committee on Energy and Natural Resources and to ensure the fitness of nominees for an appointed position, I am asking nominees to answer the following two questions:

- a. Since you became a legal adult, have you ever made unwanted requests for sexual favors, or committed any verbal or physical harassment or assault of a sexual nature?

Response: No.

- b. Have you ever faced discipline, or entered into a settlement related to this kind of conduct?

Response: No.

**Senate Committee on Energy and Natural Resources
Hearing on the Nomination of Lanny Erdos
December 17, 2019**

Questions from Senator Hoeven

Question 1. North Dakota's total energy production is 6 times greater than our energy consumption, making our state critical to U.S. energy dominance. We are able to meet the nation's energy needs and preserve our state's land, water, and air, and we are doing it well – North Dakota has been recognized by your office as having one of the best coal mine reclamation programs in the country.

Different states use different mining practices, and as a former state regulator, I am sure you have an appreciation for how a states-first regulatory approach works much better in practice rather than one-size-fits-all.

How do you intend to work with the states so we are able to continue producing energy while maintaining good environmental stewardship?

Response: After a career spent directing a program that relies on the cooperative federalism model I understand how important it is for federal agencies to have good relationships with state and tribal partners. If confirmed, I would work to ensure the Office of Surface Mining, Reclamation and Enforcement's relationships with states and tribes remain founded upon good communication and respect for their role as partners in our important work.

Question 2. Now that you have been with the agency for a few months, what are some of the main challenges you would like to address once confirmed as Director?

Response: Productive collaboration with states and tribes is central to achieving the Office of Surface Mining, Reclamation and Enforcement's multi-faceted mission. If confirmed, I would work to strengthen relationships with states and tribes, relying on good communication to strengthen the important partnerships that are so critical to the Surface Mining Control and Reclamation Act's cooperative federalism model. It is critical to our collective success that we rely on states and tribes for their valuable experience and expertise.

Question 3. With your professional and personal experience in coal mining, I'm sure you know well the value of public-private partnerships in achieving sustainable goals. As you may know, the partnerships facilitated by the Energy and Environmental Research Center (EERC) at the University of North Dakota are a cornerstone of our state's energy success story. Among other carbon capture initiatives, EERC is also leading several research projects relating to Rare Earth Elements.

If confirmed, will you continue to encourage private-public partnerships, and partnerships with labs and universities to promote innovation in the fossil fuel space?

Response: Yes. If confirmed, I will continue to encourage private-public partnerships and partnerships with labs and universities to promote innovation in achieving the Office of Surface Mining, Reclamation and Enforcement's multi-faceted mission.

**Senate Committee on Energy and Natural Resources
Hearing on the Nomination of Lanny Erdos
December 17, 2019**

Question 4: With regards to Rare Earth Elements – a topic this committee has held a hearing on – what does the United States need to do to close the gap with our global competitors, specifically China?

Response: Both Secretary Bernhardt and I recognize the importance of rare earth and other critical minerals to the United States. While development and other activities for these important minerals within the Department are carried out by bureaus other than the Office of Surface Mining, Reclamation and Enforcement, if confirmed I would stand ready to assist the Department in any way that I can to ensure the success of any strategy designed to help the United States reach our critical mineral resource potential.

Baker's Enviro Services & Technology

December 16th, 2019

Robert Baker
55 Shady Pines Ave.
Springboro, OH 45066
bakerunner1@gmail.com
937-231-6947

The Honorable Lisa Murkowski
The Honorable Joe Manchin
US Senate Energy and Natural Resources Committee Office
304 Dirksen Senate Building
Washington, DC 20510

Dear Chairman Murkowski and Ranking Member Manchin:

It is my understanding that Lanny Erdos, former Chief of the Division of Mineral Resources Management, has been nominated for the position of Director of the Office of Surface Mining Reclamation and Enforcement. I have had the distinct pleasure to work with Lanny throughout his career at the DMRM that spans several decades. As Lanny's former supervisor and program manager, I recognized Lanny's leadership skills early on when he was working in the trenches as a regulatory coal inspector and later as a design technician in our field office in New Philadelphia, Ohio. The Division provided Lanny with the opportunity to move into a supervisory role at the field level which opened doors that Lanny came charging through to advance through the ranks in a relatively short time to become Chief of the Division. His energy, drive, and dedication to the DMRM staff has earned him great respect throughout the staff. The Division's program areas that he oversees include; active coal mine and non-coal regulation, abandoned mined land reclamation, and mine safety protection. He has excelled in all these areas and provided excellent leadership by his ability to navigate through the challenging budget and program areas associated with Ohio's declining coal production.

I have spent over 40 years working in this field of land reclamation, and it is my opinion that Lanny Erdos is well qualified and would make an excellent Director of the OSMRE.

Sincerely,



Robert Baker

President, Baker's Enviro Services and Technology





THE OHIO STATE UNIVERSITY

College of Engineering
Department of Civil, Environmental, and Geodetic Engineering

Coal Combustion Products Program

470 Hitchcock Hall
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December 16th, 2019

The Honorable Lisa Murkowski
The Honorable Joe Manchin
US Senate Energy and Natural Resources Committee Office
304 Dirksen Senate Building
Washington, DC 20510

Dear Chairman Murkowski and Ranking Member Manchin,

I am writing this letter in support for the nomination of Lanny Erdos to the position of Director of the Office of Surface Mining Reclamation and Enforcement (OSMRE). The Ohio State University (OSU) is one of the Nation's leading public research universities. Over the last decade we have had the distinct pleasure to collaborate with the Ohio Department of Natural Resources' Division of Mineral Resource Management (DMRM) where Lanny has worked for his entire career. Ohio has had a long history of past mining and their legacy issues as well as a once vibrant coal mining industry which is now struggling, both of which present their own unique challenges to the DMRM. Through Lanny's excellent leadership over the last few years as Chief of the DMRM he has guided the Division to move forward as a critical partner with OSU's research and demonstration projects in the field of coal mine reclamation at both abandoned mine and active mine sites. This has enabled both entities to pursue our mutual goals of cost effective methods to reclaim abandoned mine lands through remining and beneficial use of coal combustion materials. This partnership established over the last ten years and has enabled many undergraduate and post graduate students to participate in this learning environment.



THE OHIO STATE UNIVERSITY

Lanny Erdos is an excellent well qualified candidate for this position of Director who has the experience, proven capabilities in the field, that is coupled with a "can do spirit" and drive that is very motivating. At OSU we have witnessed all of this first hand through our various research endeavors with the DMRM and the talented staff he has lead through his tenure as Chief of the DMRM.

I highly recommend the Committee approve this nomination for Director of OSMRE.

Sincerely,

Cheng Chao Ma

p.p.

Tarunjit Butalia, Ph.D. P.E.
Director of Coal Combustion Products Program
Research Associate Professor

Committees:

Finance and Appropriations, Ranking Member
Ways and Means

Member of the State Controlling Board
Member of Ohio Retirement Study Council



Contact Information:

Office: 614-466-3735
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Email: rep96@ohiohouse.gov

JACK CERA

State Representative

77 S. High Street, Columbus, Ohio 43215-6111
www.house.state.oh.us

December 12, 2019

Energy and Natural Resources Committee Office
304 Dirksen Senate Building
Washington, DC 20510
Attn: Chairwoman Lisa Murkowski and Ranking Member Manchin

Dear Chairwoman Murkowski and Ranking Member Manchin:

This letter is written in support of Lanny Erdos, an experienced candidate who is seeking the formal appointment to serve as the Director for the Office of Surface Mining Reclamation and Enforcement. Mr. Erdos is currently serving as Acting Director of the Office of Surface Mining Reclamation and Enforcement (OSMRE). With his knowledge, experience, leadership qualities and ability to work well with others, I believe he is the ideal candidate to continue in this capacity.

Mr. Erdos has over 30 years with the Ohio Department of Natural Resources. His knowledge and management style served him well at the Department as he worked to maintain high standards of regulatory effectiveness.

As the State Representative from eastern Ohio throughout the 80's and early 90's, and once again serving in this capacity for the last eight years, I have worked with Lanny on many occasions to make sure the citizens of Ohio and environment were protected. Lanny was instrumental in making sure the inspection and enforcement of Ohio's Coal, Industrial Minerals, and Mine Safety Programs were first-rate. This included the administering of such programs as inspection, enforcement, and permitting to name a few.

As I have stated, his role in Ohio's Department of Natural Resources kept him busy in protecting the environment and our citizens. It also afforded him the opportunity to work with various groups and agencies at the federal level of government. I feel confident that they would agree he worked diligently to maintain a sound environment through reclamation efforts, while managing Ohio's Coal regulatory program and mine safety program. Lanny's willingness to strike a balance between environmental conservation while helping Ohio's coal industry answer the need for affordable energy was certainly a win-win for our state. I feel confidently that he would continue to serve OSMRE with these same qualities.

Sincerely,

JACK CERA
State Representative
96th House District



MIKE DEWINE
GOVERNOR OF OHIO

Administration
Office 614.644.4357

77 S. High Street, 30th Floor
Columbus, OH 43215
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December 13, 2019

Chairman Lisa Murkowski
U.S. Senate Committee on Energy and Natural Resources
304 Dirksen Senate Building
Washington, DC 20510

Dear Chairman Murkowski and the Members of the U.S. Senate Committee on Energy and Natural Resources:

I strongly support President Trump's nomination of Mr. Lanny Erdos for the position of Director of the Office of Surface Mining Reclamation and Enforcement. For thirty-one years, Mr. Erdos dutifully served as a mining regulator within the Ohio Department of Natural Resources before accepting this nomination.

The Office of Surface Mining Reclamation and Enforcement plays a critical role in protecting citizens and the environment during mining and assuring mined land is restored to beneficial use. I would be proud to see Lanny Erdos, who has worked tirelessly on these same responsibilities in Ohio and earned the respect of the industry, public and fellow colleagues alike, lead those efforts nationally.

I respectfully urge the Committee to vote in favor of Mr. Erdos' confirmation.

Very respectfully yours,

Mike DeWine
Ohio Governor

LISA - MERRY CHRISTMAS TO
YOU + YOUR FAMILY -
MY BEST
Mike



Interstate Mining Compact Commission

445-A Carlisle Drive, Herndon, VA 20170
 Phone: 703/709-8654 Fax: 703/709-8655
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 Maryland

GOV. PHIL BRYANT
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 New York

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GOV. DOUG DUCEY
 Arizona

GOV. JARED POLIS
 Colorado

GOV. STEVE BULLOCK
 Montana

EXECUTIVE DIRECTOR

THOMAS L. CLARKE

December 16, 2019

The Honorable Lisa Murkowski,
 Senator Chair
 Energy and Natural Resources
 Committee
 United States Senate
 304 Dirksen Senate Office Building
 Washington, DC 20510

The Honorable Joe Manchin, III,
 Senator Ranking Member
 Energy and Natural Resources
 Committee
 United States Senate
 304 Dirksen Senate Office Building
 Washington, DC 20510

Re: Nomination of Lanny Erdos as Director of OSMRE

Dear Senator Murkowski and Senator Manchin:

The Interstate Mining Compact Commission (IMCC) is a multi-state governmental organization that represents the natural resource and environmental protection interests of its 27 member states. Our member states include 24 of the 25 states in which active coal mining and reclamation operations are currently being conducted. The IMCC and its member states strive for a cooperative relationship with the federal agency responsible for overseeing states' efforts to regulate active mines and reclaim abandoned mined lands under the Surface Mining Control and Reclamation Act of 1977, the Interior Department's Office of Surface Mining Reclamation and Enforcement (OSMRE).

We are aware that Lanny Erdos of Ohio has been nominated to serve as Director of the OSMRE. The IMCC provides information and observations to Congress and federal agencies on matters of concern to the states in their roles as the primary regulators of mining in the United States.

Mr. Erdos' history of involvement with states and OSMRE gives him a background for understanding the challenges confronting OSMRE. He is well respected by IMCC member states. Attached is a resolution that was unanimously adopted by the IMCC at its Mid-Year Meeting on October 9, 2019. The resolution speaks for itself, but, in summary, it congratulates Mr. Erdos on

"Serving the States for Over 40 Years"

both his retirement from state government in Ohio and his new position with OSMRE, expresses appreciation for past efforts on behalf of IMCC and the states and expresses gratitude for his participation in the IMCC's Mid-Year Meeting.

We hope these observations are helpful to you. If you have any questions, please do not hesitate to contact me.

Sincerely,



Thomas L. Clarke
Executive Director

cc Members of the Energy and Natural Resources Committee

Resolution

Interstate Mining Compact Commission

BE IT KNOWN THAT:

WHEREAS, Lanny Erdos has participated in the work of the Interstate Mining Compact Commission (IMCC) on behalf of the state of Ohio for many years, most recently as Chair of the Finance and Administrative Committee; and

WHEREAS, Lanny has recently retired from state government and accepted a position as Deputy Director of the Office of Surface Mining Reclamation and Enforcement (OSMRE); and

WHEREAS, Lanny's dedication to government service and positive personality will serve him well in his new position of leadership with OSMRE; and

WHEREAS, IMCC's Mid-Year Meeting in Hot Springs, Arkansas was honored by Lanny Erdos's presence as he met with the states and presented remarks at the meeting between OSMRE and the states on October 7, 2019; and

WHEREAS, Lanny Erdos shared valuable insights and information with the IMCC member states; and

NOW THEREFORE BE IT RESOLVED:

That the Interstate Mining Compact Commission expresses its appreciation for all Lanny Erdos has done on behalf of the states and IMCC, and congratulates him both on his retirement from state government service and on his new position with OSMRE. IMCC also expresses its gratitude to Lanny for his participation in making this year's Mid-Year Meeting an outstanding success.



Issued this 9th day of October, 2019

ATTEST:

Executive Director