

United States Senate

WASHINGTON, DC 20510

September 10, 2014

The Honorable Sally Jewell
Secretary
Department of Interior
1849 C Street, N.W.
Washington, D.C. 20240

Dear Secretary Jewell:

It has come to our attention that the Department's Office of Surface Mining, Reclamation and Enforcement (OSM) recently demanded that the Oklahoma Department of Mines (ODM) enter into a "secrecy agreement" in order to discuss resolutions of an issue that has arisen with its surface mining program, over which it has primacy.

For decades, Oklahoma and other states have been working on a variety of programmatic issues with OSM. The procedures for resolving these issues are well established and follow policies and regulations under the Surface Mining Control and Reclamation Act. For the first time that we are aware, OSM is now demanding that such discussions occur in secret.

The "Contract of Inadmissibility" that OSM requested ODM sign would prohibit ODM from disclosing the subject of discussions, or even the existence of them, to anyone other than select employees. That prohibition of discussion would extend to the Governor, the Attorney General, and to the State Legislature, all of whom have a fiduciary responsibility to oversee the activities of ODM. OSM's request is disrespectful of the state government's responsibilities, and if ODM were to sign the document it would likely be in violation of many state laws governing transparency and administrative procedure.

OSM was established under the Surface Mining Control and Reclamation and Act of 1977 (SMCRA), which provides that once a state develops laws, regulations and programs that are as effective as Federal SMCRA, the Secretary of Interior may grant "primacy" to that state. Oklahoma achieved primacy in 1983, and thus assumed exclusive jurisdiction over surface coal mining with limited oversight by OSM. In establishing a system that provides for exclusive jurisdiction by the states, governed by state laws and regulations tailored to meet local considerations, Congress specifically recognized the inherent differences throughout the coal producing regions in the country. OSM's attempt to exclude involvement of local stakeholders in the development of state public policy is contrary to the express intent of Congress.

The essence of OSM's mission in a primacy state is to work with the state to resolve programmatic issues. For OSM to suggest that it will only do its job under the condition of secrecy is completely improper, as well as unproductive. Conducting government business in secret erodes public confidence, and in this case it is a blatant attempt to avoid public participation in an official decision.

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This proposal is also at odds with the President's transparency agenda and claim that his Administration is "the most transparent administration in history."

We urge you to open an inquiry into the practices of OSM to engage in secret negotiations as a means of avoiding public participation in its discussions, particularly with states that have primacy over their federal programs. In the interim, we urge you to instruct the Director of OSM to immediately abandon this effort in Oklahoma.

Sincerely,



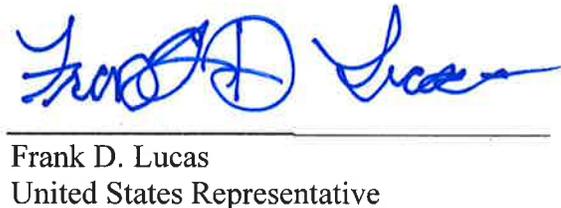
James M. Inhofe
United States Senator



Dr. Tom Coburn
United States Senator



Tom Cole
United States Representative



Frank D. Lucas
United States Representative



James Lankford
United States Representative



Markwayne Mullin
United States Representative



Jim Bridenstine
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