RAÚL M. GRIJALVA OF ARIZONA
CHAIRMAN

DAVID WATKINS
STAFF DIRECTOR

U.S. House of Representatives
Committee on Natural Resources
Washington, DC 20515

ROB BISHOP OF UTAH
RANKING REPUBLICAN

PARISH BRADEN
REPUBLICAN STAFF DIRECTOR

February 11, 2019

The Honorable David Bernhardt
Acting Secretary
U.S. Department of the Interior
1849 C Street, NW
Washington, D.C. 20240

Dear Acting Secretary Bernhardt:

In 2016, the Office of Surface Mining Reclamation and Enforcement (OSMRE) funded the National Academy of Sciences, Engineering, and Medicine (NAS) to conduct a study on, "Potential Human Health Effects of Surface Coal Mining Operations in Central Appalachia." The NAS committee had completed four meetings and was roughly halfway through its work when, in August 2017, OSMRE abruptly ordered the NAS to halt the study. We sent letters on August 25, 2017, and October 17, 2017, requesting additional information on the reasons behind the study cancellation, and received only a short response on May 1, 2018, which shed no additional light on the issues.

To assist the House Natural Resources Committee in carrying out its oversight responsibilities on this matter, please provide the following as soon as possible, but no later than March 15, 2019:

1. All documents and communications within and between employees and persons in the Immediate Office of the Secretary, the Deputy Secretary's office, the office of the Assistant Secretary for Land and Minerals Management, the Office of Surface Mining Reclamation and Enforcement, and the National Academies of Sciences, Engineering and Medicine regarding the decision to cancel the study.

2. All documents and communications within and between employees and persons in the Immediate Office of the Secretary, the Deputy Secretary's office, the Office of Surface Mining Reclamation and Enforcement, the office of the Assistant Secretary for Land and Minerals Management, and the National Academies of Sciences, Engineering and Medicine regarding the disposition of the remaining $400,000 budgeted for this study, including a detailed account of where it was re-purposed or why it was allowed to expire rather than being re-obligated to this study.

3. All documents and communications within and between employees and persons in the Immediate Office of the Secretary, the Deputy Secretary's office, the office of the Assistant Secretary for Land and Minerals Management, and any coal company or coal industry group regarding the National Academy of Sciences study on the potential human health effects of surface coal mining in Appalachia.

4. All documents and communications between Downey Magallenes, former Deputy Chief of Staff for Policy, and Peabody Energy, the Heartland Institute, or any coal company or coal industry group regarding the National Academy of Sciences study on the potential human health effects of surface coal mining in Appalachia.

5. All documents and communications between Blake Deeley, former Advisor in the Office of Congressional and Legislative Affairs, and employees and persons in the Immediate Office of the Secretary, the Deputy Secretary's office, the Office of Surface Mining Reclamation and Enforcement, the office of the Assistant Secretary for Land and Minerals Management, or any coal company or coal industry group regarding the National Academy of Sciences study on the potential human health effects of surface coal mining in Appalachia.

6. All documents and communications between Landon "Tucker" Davis, Policy Advisor within the Office of Surface Mining Reclamation and Enforcement, and any coal company or coal industry group regarding the National Academy of Sciences study on the potential human health effects of surface coal mining in Appalachia.

Please refer to the attached instructions on how to respond to this document request. As specified therein, upon completion of the document production, please submit a written certification that a diligent search has been completed and all responsive documents have been produced to the Committee. If you have any questions about this request, please contact my staff at (202) 225-6065.

Sincerely,

Raúl M. Grijalva
Chairman
Committee on Natural Resources

Alan S. Lowenthal
Chairman
Subcommittee on
Energy and Mineral Resources

Responding to Committee Document Requests

In responding to document requests from the Committee on Natural Resources, please apply the instructions and definitions set forth below:

Instructions

1. In complying with the request, you should produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. You should also produce documents that you have a legal right to obtain, that you have a right to copy, or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party. Requested records, documents, data, or information should not be destroyed, modified, removed, transferred, or otherwise made inaccessible to the Committee.

2. In the event that any entity, organization, or individual denoted in this request has been, or is currently, known by any other name than that herein denoted, the request should be read also to include them under that alternative identification.

3. The Committee's preference is to receive documents in electronic form (i.e., memory stick or thumb drive) in lieu of paper productions. Documents produced in electronic format should also be organized, identified, and indexed electronically. Consult with the Committee to determine the appropriate format in which to produce the information.

4. Each document produced should be produced in a form that renders the document capable of being copied.

5. Documents produced to the Committee should include an index describing the contents of the production. To the extent more than one CD, hard drive, memory stick, thumb drive, box, or folder is produced, each CD, hard drive, memory stick, thumb drive, box, or folder should contain an index describing its contents.

6. Documents produced in response to this request should be produced together with copies of file labels, dividers or identifying markers with which they were associated when this request was issued. To the extent that documents were not stored with file labels, dividers, or identifying markers, they should be organized into separate folders by subject matter prior to production.

7. When you produce documents, you should identify the paragraph in the Committee's schedule to which the documents respond.

8. It shall not be a basis for refusal to produce documents that any other person or entity also possesses a non-identical or identical copy of the same documents.

9. If compliance with the request cannot be made in full, compliance should be made to the extent possible and should include an explanation of why full compliance is not possible.

10. In the event that a document is withheld on the basis of privilege, provide a privilege log containing the following information concerning any such document: (a) the privilege asserted; (b) the type of document; (c) the general subject matter; (d) the date, author and addressee; and (e) the relationship of the author and addressee to each other.

11. If any document responsive to this request was, but no longer is, in your possession, custody, or control, you should identify the document (stating its date, author, subject and recipients) and explain the circumstances by which the document ceased to be in your possession, custody, or control.

12. If a date or other descriptive detail set forth in this request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, you should produce all documents which would be responsive as if the date or other descriptive detail were correct.

13. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data, or information not produced because it has not been located or discovered by the return date should be produced immediately upon location or discovery subsequent thereto.

14. All documents should be Bates-stamped sequentially and produced sequentially.

15. Documents produced to the Committee in response to this request should be delivered to majority staff in Room 1324 of the Longworth House Office Building.

Definitions

1. The term **"document"** means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, interoffice and intra-office communications, electronic mail (e-mail), contracts, cables, notations of any type of conversation, telephone calls, text messages, MMS or SMS messages, other mobile-to-mobile messages, instant messages or online chat messages, meetings or other communications, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, voice mails, microfiche, microfilm, videotape, recordings and motion pictures), and electronic and mechanical records or representations of

any kind (including, without limitation, tapes, cassettes, disks, computer server files, computer hard drive files, CDs, DVDs, memory sticks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape or otherwise. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.

2. The term **"documents in your possession, custody, or control"** means (a) documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, or representatives acting on your behalf; (b) documents that you have a legal right to obtain, that you have a right to copy, or to which you have access; and (c) documents that you have placed in the temporary possession, custody, or control of any third party.

3. The term **"communication"** means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether face-to-face, in a meeting, by telephone, fascimile, mail, e-mail (desktop or mobile device), text message, MMS or SMS message, other mobile-to-mobile message, instant message or online chat, telexes, releases, personal delivery, or otherwise.

4. The terms **"and"** and **"or"** shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this request any information which might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neuter genders.

5. The terms **"person"** or **"persons"** means natural persons, firms, partnerships, associations, corporations, subsidiaries, divisions, departments, joint ventures, proprietorships, syndicates, or other legal, business or government entities, and all subsidiaries, affiliates, divisions, departments, branches, and other units thereof.

6. The term **"identify,"** when used in a question about individuals, means to provide the following information: (a) the individual's complete name and title; and (b) the individual's business address and phone number.

7. The terms **"referring or relating,"** with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with or is in any manner whatsoever pertinent to that subject.

8. The term **"employee"** means agent, borrowed employee, casual employee, consultant, contractor, de facto employee, independent contractor, joint adventurer, loaned employee, part-time employee, permanent employee, provisional employee, subcontractor, or any other type of service provider.