

PERSONAL EXPLANATION

HON. RON LEWIS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 2005

Mr. LEWIS of Kentucky. Mr. Speaker, I was absent from the House on Tuesday, April 12, attending a funeral for a soldier in my district who died heroically last week in the effort to liberate Iraq. Had I been present, I would have voted the following way:

H.R. 135: To establish the Twenty-First Century Water Commission to study and develop recommendations for a comprehensive water strategy to address future water needs, "yea."

H.R. 541: To direct the Secretary of Agriculture to convey certain land to Lander County, NV, and the Secretary of the Interior to convey certain land to Eureka County, NV, for continued use as cemeteries, "yea."

INTRODUCTION OF THE ABANDONED MINE LANDS RECLAMATION REFORM ACT OF 2005

HON. NICK J. RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 13, 2005

Mr. RAHALL. Mr. Speaker, today I am pleased to join our colleague Representative BARBARA CUBIN in introducing the "Abandoned Mine Lands Reclamation Reform Act of 2005" in recognition of the pressing need to make continued progress in restoring the environment in coalfield communities throughout the Nation.

Originally authorized as part of the landmark Surface Mining Control and Reclamation Act of 1977, to date over \$5 billion has been appropriated under the Abandoned Mine Reclamation Program in an effort to restore lands and waters adversely affected by past coal mining practices. These restoration projects normally involve threats to the public health and safety from dangerous highwalls, subsidence, refuse piles and open mine portals. They also include the construction of new water supply systems to coalfield communities where water supplies have been contaminated by past coal mining practices. Over the years, funds have also been made available under this program for emergency coal reclamation projects, the Rural Abandoned Mine Program, the Small Operators Assistance Program, certain noncoal mining reclamation projects and the administration of the program.

The primary delivery mechanism for these funds is through annual grants made through the annual appropriations process to 26 eligible States and Indian tribes. This effort is augmented by funds expended by the Interior Department's Office of Surface Mining (OSM) in States and tribes without approved reclamation programs. By most accounts, this effort has been a success achieving far more in real on-the-ground environmental restoration than programs such as the Superfund.

Yet, the mission of this program has not yet fully been accomplished which is the reason for the legislation I am introducing today. As it stands, there currently exists about \$3 billion worth of high priority human health and safety

threatening abandoned coal mine reclamation costs in this country. There are other costs as well, associated with lower priority abandoned coal mine sites. The fundamental purpose of the "Abandoned Mine Lands Reclamation Act of 2005" is to raise sufficient revenues which, when coupled with the unappropriated balance in the Abandoned Mine Reclamation Fund and the reforms proposed by the legislation, to finance the reclamation of the remaining \$3 billion inventory of high priority coal reclamation sites and draw this effort to a successful conclusion.

In this regard, it is essential to note that this program is not financed by the general taxpayer but rather through a fee assessed on every ton of coal mined. The unreclaimed coal sites eligible for expenditures under the program were primarily abandoned prior to the enactment of the Surface Mining Control and Reclamation Act of 1977 which placed stringent mining and reclamation standards in place. The authority to collect these fees was originally for a 15-year period. However, on two prior occasions through legislation I sponsored the Congress extended those fees collections in recognition of the continued need to address health, safety and environmental threats in the Nation's coalfield communities. Those fee collections are currently set to expire at the end of June this year.

A central feature of this legislation then is to extend that fee collection authority through the year to 2020. This is the period the OSM estimates will be necessary to generate the additional revenue to complete the high priority coal site inventory. However, that alone will not allow us to achieve that goal which is the reason for the reforms proposed by this bill.

Simply put, in my view over the years there has been a hemorrhaging of some of the funding made available under this program to lower priority projects. One of the reasons this reduction in focus on health and safety threatening projects has occurred is due to a late 1994 OSM policy shift that corrupted what is known as the general welfare standard in the coal reclamation priority rankings. This new policy has had the affect of allowing States to bootstrap what would normally have been lower priority 3 projects into the higher priority 1 and 2 rankings. To be clear, not all States or even a majority of States have taken advantage of this new policy and I commend them for that. Yet it is a fact that as a result of this new policy the bona fide \$3 billion inventory of unfunded priority 1 and 2 projects has swollen to over \$6 billion. I do not recognize this \$6 billion figure and neither does this legislation.

The reforms proposed by this bill include eliminating the general welfare standard and restricting the use of State/tribal share grants and supplemental federal share grants to bona fide coal priority 1 and 2 projects involving threats to human health and safety. Once those projects are completed and only when those projects are completed, with two minor exceptions, can a State or tribe undertake the lower priority coal projects under the certification program with their State/tribal share grants. The exceptions to this rule involve situations where a priority 3 site is undertaken in conjunction with a priority 1 or 2 site, or where a priority 3 site is addressed in association with a coal remaining operation. In effect, this legislation seeks to target the lion's share of available funding to coal priority 1 and 2s

keeping faith with the original mission of the program. Among other reforms envisioned are federal approval of any additions made to the official Abandoned Mine Reclamation Inventory and a review of those additions made since the OSM policy shift on the general welfare standard.

The purposes of these reforms are intended, as previously noted, to complete those projects which are necessary to complete for the sake of protecting the health and safety of coalfield residents. At the same time, they are also intended to give the coal industry which finances this program reasonable assurances that the fees it pays will not be squandered but put to good use, and to give the industry a time frame which it can count on when the assessment of those fees will no longer be necessary.

I would like to make note of two additional changes to current law proposed by this bill. As already noted, in the past appropriations were made available from the Abandoned Mine Reclamation Fund to the Rural Abandoned Mine Program (RAMP), an Agriculture Department program. No such appropriations have been forthcoming for six fiscal years now. I find this disappointing. While the Interior Department and the States from the very beginning were against RAMP funding, contending it was duplicative of their efforts, this in my view and in that of many others was not the case. RAMP served a distinctly different purpose involving a closer working relationship with landowners and sought to address reclamation projects on a more holistic basis. Another problem that also dogged RAMP was the fact that while it is an Agriculture Department program, its appropriations were being made out of an Interior Department trust fund by the Interior Appropriations bill. Obviously, Interior officials had little interest in this arrangement and so beginning in 1995 we have not been able to obtain funding for RAMP. In my view, this situation will not change if the status quo is maintained. For that reason, the legislation I am introducing today would authorize RAMP for general fund appropriations rather than out of the Abandoned Mine Reclamation Fund so that funding can be pursued through the Agriculture Department's Natural Resources Conservation Service's budget.

Finally, this legislation also seeks to deal in a comprehensive fashion with the problems which have been plaguing the coal miner health care program.

In that regard, the bill would lift the restriction that interest accrued in the Abandoned Mine Reclamation Fund can only be transferred to what is known as the Combined Benefits Fund for unassigned beneficiaries. Under this bill, all accrued interest would be available to keep faith with the promise made by the federal government many years ago to guarantee health care benefit for certain retired coal miners. Further, this legislation would also make accrued interest available for what are known as the 1992 and 1993 Plans. Due to a variety of factors, such as the rash of steel company bankruptcies and the Horizon decision of last year, these plans are coming under financial hardship and we must also keep faith with those retired coal miners and their dependents covered by them.

Mr. Speaker, it is time, far past the time, for this Congress to move forward with this legislation.