

April 12, 2018

Governor Bill Haslam
1st Floor, State Capitol
Nashville, TN 37243

Dear Governor Haslam,

We, the undersigned organizations representing hundreds of thousands of Tennesseans, write to strongly encourage you to veto SB686/HB571, the “Primacy and Reclamation Act of Tennessee.” This legislation weakens oversight of coal mining in our state and threatens the health and safety of our communities, water resources, and the environment.

The intent of this legislation is to transfer regulatory authority over coal mining in Tennessee from the federal Office of Surface Mining, Reclamation, and Enforcement (OSMRE) to the Tennessee Department of Environment and Conservation (TDEC). The OSMRE program has directly regulated coal mining in Tennessee under the Surface Mining Control and Reclamation Act of 1977 (SMCRA), since then Governor Lamar Alexander had the previous statute repealed effective Oct. 1, 1984.

State implementation of the federal SMCRA mining regulation would be a substantial money-loser for Tennessee and could result in less effective regulation of a highly polluting industry that is associated with a wide range of negative environmental, social, economic, and public health impacts. At the same time, transferring regulatory authority to the state will do nothing to revive coal mining in Tennessee, as market-wide economic forces are responsible for the decline seen across Appalachia, with more mines being idled or closed every week. We ask you to consider the following points and veto this bill.

SB686/HB571 would return the coal program to the state at a huge cost to the taxpayer to attempt to prop up a dying industry.

- A state program would cost state taxpayers a lot of money. It would require hiring expert hydrologists, geologists, field inspectors and others to create a new bureaucracy to replicate the staff already in place at OSMRE’s Knoxville field office. In addition, the OSMRE will continue to monitor state compliance with SMCRA and the effectiveness of any Tennessee program. No taxpayer money would be saved, and wasteful duplication of activities would occur.

- Transferring this program will cost more than \$500,000 in the first year and more than \$1,000,000 in the second year before any promised federal cost sharing kicks in.

There is not enough active coal mining in Tennessee to support or justify an effective program.

- There are only 3 actively producing coal mines in Tennessee — one underground mine and one surface mine in Claiborne County and one surface mine in Anderson County. Only one application for a new mine was filed in the last 3 years, and that application was withdrawn by the applicant.
- There are 11 coal mining permits issued under the Federal program that are in “temporary cessation,” meaning they produce no coal. This shows that the OSMRE regulatory program can adequately permit coal mines but the majority of permitted mines in Tennessee do not have a market to sell any coal.
- The decline of the coal industry in Tennessee is due to a shrinking market for the state's undesirable, high-sulfur coal, not regulatory hurdles. Coal production in Tennessee has plunged 90 percent from its peak of 11 million tons in 1972 to less than 1 million tons in 2016.
- The Tennessee Mining Association claims transferring SMCRA primacy to TDEC would result in an increase of coal mining in our state. This assertion is false because coal production is driven by economic factors, not regulation. The same declines observed in Tennessee are also being experienced in neighboring states that already have state primacy to issue permits and regulate mining.

Creating a new, under-resourced mining bureaucracy in Tennessee would weaken oversight of coal mining in our state and threaten the health and safety of our communities, water resources, and environment.

- SMCRA allows states to protect public health and safety and the water, air and environment better than the federal minimum. SB686/HB571 forbids state regulations from protecting our communities more than federal law does now. This is a bad precedent and the authority of TDEC to protect our health and safety should not be restricted.
- SB686/HB571 does not exclude Wild and Scenic River riparian areas from mining and allows agreements to mine in State Parks and Natural Areas, State

Forests, State Wildlife Management Areas, and local parks and other local public lands.

- These bills do not prohibit mountaintop removal mining. Currently, the TN Water Quality Control Act says you can't dump the spoils from a mountain or ridge mining operation into the adjacent creeks or valleys. These bills would make TN's mining laws "no stricter than federal" and federal law allows the practice of valley filling.

The problems afflicting the coal industry in Tennessee are not due to OSMRE's federal oversight; they are due to the economics of the coal industry nationally and globally. Transfer of regulation from OSMRE to TDEC would not improve the coal industry's position in Tennessee, and indeed would cost Tennessee taxpayers money they can ill afford. These bills would also further damage Tennessee's communities, waters, and the environment. Please consider all these factors, and veto these ill-considered bills.

Thank you for your immediate attention to this matter.

Sincerely,

Julie Burns, President
Statewide Organizing for Community eMpowerment

Axel Ringe, Conservation Chair
Tennessee Chapter of Sierra Club

John McFadden, CEO
Tennessee Environmental Council

Darlene Panvini, President
Tennessee Conservation Voters

Gary Weatherford, President
Tennessee Scenic Rivers Association

Tom Cormons, Executive Director
Appalachian Voices

Dana Wright, Interim Executive Director
Tennessee Clean Water Network

Sandra Goss, Executive Director
Tennessee Citizens for Wilderness Planning

Patricia Hudson, Co-founder
Lindquist Environmental Appalachian Fellowship

Dennis Gregg, Executive Director
Obed Watershed Community Association

Marie Webster, Director
Clearfork Community Institute

Tonia Brookman, Director
Woodland Community Land Trust

Lou Murrey, Coordinator
Stay Together Appalachian Youth

Margo Miller, Director
Appalachian Community Fund

Deborah Barr, Director
Clean Water Expected in East Tennessee

William Isom, Coordinator
Sustainable and Equitable Agricultural Development task force of Community Economic
Development Network

Christa Faulkner, Coordinator
The Alliance for Appalachia

Grace Stranch, President
United Mountain Defense

Darrel Coker, Organizer
Tennessee Appalachian Community Economics

Ben Allen, Organizer
Science for the People - East Tennessee