

**Testimony of Rep. Shelley Moore Capito**  
**House Committee on Oversight & Government Reform, the**  
**Subcommittee on Regulatory Affairs, Stimulus Oversight, and**  
**Government Spending.**

On behalf of my constituents, I would like to thank the Chairman and Ranking Member of the Subcommittee on Regulatory Affairs, Stimulus Oversight, and Government Spending for holding this hearing on the EPA's Appalachian Energy Permitted Area which is killing jobs in my home state of West Virginia. You will hear from a variety of folks from the region today, and all of them can provide valuable insight into how the EPA is affecting their communities and livelihoods.

My home state of West Virginia is one of the largest coal producing states in the nation, and is home to some of the most valuable coal reserves in the world. The coal industry is one of the state's largest source of jobs and tax revenue.

As you know, the coal industry is heavily regulated under the Clean Water Act which mandates that coal operators obtain a variety of permits prior to beginning mining operations, including for both underground and surface mining operations. The law requires that the permitting process be quarterbacked by the Army Corps of Engineers, with input from the EPA and state environmental officials using state environmental standards issued under authority delegated to the states from the EPA.

Earlier this year, the EPA retroactively vetoed a previously approved Clean Water Act permit that had been issued for Arch Coal's Spruce Mine Number 1. It is important to note that the EPA had previously reviewed this permit only a few short years before and it is an extraordinary action for the EPA to retroactively veto a permit. This action has resulted in hundreds

of jobs not being created. Additionally, the retroactive revocation of a permit is particularly concerning because it causes great uncertainty across a variety of industries. Coal operators can no longer safely make investments because the EPA has removed regulatory certainty from the permitting process by making operators wonder whether their permits will be revoked after they have invested millions of dollars in the development of reserves. Also very concerning is that the EPA is currently sitting on hundreds of permits filed by coal operators, holding up investment and therefore job creation.

The negative impact of the EPA's actions upon jobs is obvious. However, the EPA has been unable to give me a straight answer on whether it does or does not consider the negative impact on jobs prior to acting. Instead, this administration's EPA puts ideology first, and hardworking West

Virginians who are working to put food on their family's tables last. Just last month, American Electric Power announced it will shut down five plants in West Virginia and Ohio and retire nearly 6,000 megawatts of coal-fueled power generation.

According to AEP, this is a direct response to new and burdensome regulations on coal-fueled power plants levied by the EPA within the last year. As hundreds of AEP workers think about their imminent unemployment, the Administration refuses to reconsider its anti-coal agenda.

The EPA's permissiveness on coal operations is not the only place where the EPA has been hurting economic growth in West Virginia under the auspices of the Clean Water Act. Notably, the EPA's permissiveness on Clean Water Act permits impacts other industries as well, including the construction and agriculture industries. Any industry who needs to move dirt, or discharge

water or water runoff, requires a Clean Water Act permit. While many of you may not have coal operations in your district, it is likely that there are industries and projects within your districts that are being negatively impacted by the EPA's actions.

The EPA's ideological war on Appalachian jobs is manifesting itself in the eastern part of West Virginia where the EPA is using aerial surveillance of family farms with the goal of ensuring compliance with the Clean Water Act. According to an article in a local newspaper, the EPA is going as far as regulating the type of sheds that family farmers may build for their cattle operations. When asked about the economic impact of this type of regulatory overreach, the EPA's representative made it clear that jobs are irrelevant.

The EPA's actions are unacceptable. West Virginia and Appalachia have the natural resources to help create jobs and bring this economy out of recession. However, this cannot happen in the current regulatory environment. Folks I talk to back in West Virginia keep telling me that they are ready and willing to create jobs if only the EPA would get off their backs.

If the administration thinks their policies are helping folks across the country, I invite them to visit my state to see how their actions are hurting families across Appalachia. It's time to take advantage of the resources found right here in America. Doing so will launch our economy in the right direction and create thousands of good-paying jobs.

West Virginia is truly blessed to have abundant supplies of natural resources. As a native West Virginian I enjoy my State's

beauty and appreciate its pristine water, and want to do what is reasonably necessary to maintain our state's environment. But instead of helping industry and family farmers tap into our full economic potential while implementing common sense environmental regulations, this Administration's EPA would rather do things such as approving de facto regulations that would deem some bottled water a danger to aquatic life.

It is time for this administration to get off the backs of West Virginia's job creators by using common sense and not ideology. Thank you again for holding this very important hearing.