

**OFFICE OF SURFACE MINING
RECLAMATION AND ENFORCEMENT**

**ANNUAL EVALUATION SUMMARY REPORT
FOR THE
REGULATORY PROGRAM
ADMINISTERED BY THE STATE OF**

ALASKA

**EVALUATION YEAR 2009
JULY 1, 2008 to JUNE 30, 2009**



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I. Introduction

The Surface Mining Control and Reclamation Act of 1977 (SMCRA) created the Office of Surface Mining Reclamation and Enforcement (OSM) in the Department of the Interior. SMCRA provides authority to OSM to oversee the implementation of and provide Federal funding for State regulatory programs that have been approved by OSM as meeting the minimum standards specified by SMCRA. This report contains summary information regarding the Alaska Program and the effectiveness of the Alaska Program in meeting the applicable purposes of SMCRA as specified in Section 102. This report covers the period of July 1, 2008 to June 30, 2009. Detailed background information and comprehensive reports from the program elements evaluated during the period are available for review and copying at the Olympia, Washington OSM Office.

The following acronyms are used in the report:

AML	Abandoned Mine Lands
ASCMCRA	Alaska Surface Coal Mining Control and Reclamation Act
ASRC	Arctic Slope Regional Corporation
BHP	BHP Billiton
COE	U.S. Army Corps of Engineers
DMLW	Division of Mining, Land and Water
DNR	Alaska Department of Natural Resources
EPA	U.S. Environmental Protection Agency
FWS	U.S. Fish and Wildlife Service
GIS	Geographic Information System
GRP	Gold Run Pass Mine
GVEA	Golden Valley Electric Association
NPDES	National Pollutant Discharge Elimination System
NOV	Notice of Violation
OSM	Office of Surface Mining

PF	Poker Flats Mine
SEIS	Supplemental Environmental Impact Statement
SMCRA	Surface Mining Control and Reclamation Act of 1977
TBR	Two Bull Ridge Mine
TIPS	Technical Innovation and Professional Services
UCM	Usibelli Coal Mine Inc.
WR	Western Region

II. Overview of the Alaska Coal Mining Industry

Alaska is home to enormous coal reserves, estimated to be approximately 170 billion tons. Currently, Healy, Alaska is the only area where active coal mining is taking place. Historically, Usibelli Coal Mine Inc. (UCM) has employed as many as 150 employees at its active mines; currently, 122 people are employed by UCM. Even though the Healy area economy is becoming more diversified, primarily due to increased tourism and the spin-off benefits of tourism, the area relies heavily on the economic contributions made possible by the coal mining activity.

Usibelli Coal Mine Inc. is a family owned company and has very strong ties to the Healy area. The company was founded in 1943 and started coal mining operations shortly thereafter. Today, UCM is led by the grandson of the founder. It is the largest year-round employer in the area. The company not only currently employs approximately 122 people at the mine; it is a strong supporter of community activities. The Usibelli Foundation, incorporated in 1991, has contributed over \$100,000 annually to charitable organizations that support youth services, the arts, education, health and social services and civic activities in the Healy and Fairbanks area. Directly, UCM accounts for approximately an additional 80 jobs between the adjacent Golden Valley Electric Association (GVEA) mine mouth power plant, the Alaska Railroad Corporation and the Seward Coal Terminal located in Seward, Alaska. Indirectly, UCM mining activities benefit over 400 individual contractors/vendors located between Anchorage and Fairbanks with approximately 200 additional individuals being employed by the various power plants located throughout the interior of Alaska that burn coal mined from the Usibelli sites.

Since 1985, UCM has exported a sizable portion of its production to South Korea. However, in 2002, Indonesia outbid UCM for the Korean contract and the South Korean government terminated their coal contract with UCM. This resulted in decreased production during the 2003 evaluation cycle. The drop in production also resulted in a smaller workforce with employment decreasing to around 100 employees. Since 2004,

world coal prices have rebounded and UCM has once again begun exporting coal to the Pacific Rim. Before the Korean contract was terminated, approximately 1.6 million tons of coal was mined annually in the Healy valley. With the renewed Korean contract in place, UCM production peaked at 1.72 million tons in 2004. Recently, UCM negotiated a coal sales agreement with Chile for shipment of low sulphur coal to be used for power generation.

During the 2009 evaluation cycle, UCM produced approximately 1,538,166 tons of coal. Approximately one-third, 543,852 tons, was transported by rail to the coal load-out facility located in Seward, Alaska for export. The remaining coal is transported to six power plants located within Alaska's interior. At the current rate of production, UCM has permits in place to mine for another 30 years. UCM is confident production will continue to rebound and is working with the GVEA power plant to explore various options as well as pursuing additional coal markets.

UCM is nearing completion of its coal mining activities at its Gold Run Pass Mine (GRP) and is actively reclaiming the appropriate areas. The Alaska Division of Mining, Land and Water (DMLW) released approximately 70 acres of Phase I and Phase II bond at GRP during the 2004 evaluation cycle. The only thing preventing Phase III bond release is that the permittee has yet to conduct a second field evaluation of re-vegetation success. It is anticipated that this survey will be conducted towards the end of this growing season. Also, very little coal remains to be mined at the Poker Flats Mine (PF) with UCM having backfilled and graded and planted over 681 acres. Coal production is increasing at the Two Bull Ridge Mine (TBR), which lies north of the Poker Flats Mine just across the Hoseana Creek. At full production, the Two Bull Ridge Mine is capable of producing approximately 2.1 million tons of coal annually.

On April 4, 2002, DMLW approved UCM's Rosalie Mine permit in the Healy Creek Valley, approximately 7 miles east of Healy, Alaska. This mine has an estimated 6.7 million tons of reserves and an estimated mine life of 13.5 years. The Rosalie Mine remains inactive as no bond has been posted to date.

UCM has assumed, through permit transfer, the leasing and mining rights to two additional DMLW permits as well as an exploration permit. UCM has plans to possibly develop this area when the economics are right. The permits are located in an area known as Wishbone Hill, about 1 hour northeast of Anchorage, near the town of Sutton. Considering that transportation concerns and costs often make Alaska coal economically unfeasible, the location of UCM's Wishbone Hill permits could trigger increased mining activity in the State. UCM has not yet initiated any activity at the Wishbone Hill location.

UCM has developed a conceptual design of a mine mouth power plant near an area known as Jumbo Dome, located north of their current mining operations. The proposal is for a 200 megawatt power plant with an adjacent mine capable of producing 1.5 to 2.0 million tons of coal annually. During the 2007 evaluation cycle, DMLW issued a new permit to UCM for construction of a road to the Jumbo Dome area. UCM is currently constructing the Jumbo Dome access road. UCM estimates that 8 million cubic yards

must be moved to construct the road. It is estimated that final road construction will take between 3 and 5 years. DMLW staff anticipates UCM to submit a surface coal mining permit application within the next 2-3 years.

The owner of the Jonesville underground mine, Nerox Power Systems Inc. (Nerox), transferred its leases and mining rights to Sutton Partners LLC doing business as Knoll Acres Associates of Boise, Idaho. The principals of Knoll Acres worked with DMLW staff for the past several years to develop a permit application that met all applicable regulations and was able to be approved. The company completed some outstanding reclamation obligations it inherited from Nerox Power. The entire process has been excruciatingly slow and frustrating. DMLW deemed the application both administratively and technically complete on January 14, 2005. An appeal to permit issuance was filed, with the hearing being held in July of 2005. After the hearing, the plaintiff dropped his appeal.

In spite of the progress made during previous evaluation cycles to bring the Jonesville Underground Mine into production, nothing happened again during the 2008 evaluation cycle. However, Alaska Earth Sciences (AES) did enter into a partnership with the permittee, Sutton Partners LLC, during the last review cycle in an attempt to attract development partners. AES, in conjunction with DNR, planted between 40-50 willow stakes in seep areas on the outslope of the mine...early indications are that the plantings will be successful. During 2008, the State Mental Health Trust Fund weighed its options regarding lease termination on this site and worked closely with DMLW staff on the issue.

In December 2008, Black Range Minerals, an Australian entity, acquired a 100% interest in the Jonesville coal project. Black Range Minerals, doing business as Ranger Alaska LLC, applied to DMLW for a permit transfer. DMLW determined that the permit transfer request was both complete and technically adequate. Additionally, Ranger Alaska posted a replacement bond in the amount of \$251,615 to cover the cost of outstanding reclamation obligations. Ranger Alaska has been aggressively upgrading the infrastructure on the permit site as well as pursuing some outstanding reclamation obligations.

PacRim Coal, the leaseholder of a 20,000 acre coal lease area in the Beluga Coal Field, located in Southcentral Alaska, initiated the permitting process with DMLW and other appropriate state and Federal agencies during the 2007 evaluation cycle. The project, known as the Chuitna Coal Project, has been the subject of several scoping meetings involving the regulatory community as well as the public.

The applicant, PacRim Coal LP, has been submitting to DMLW final packages of baseline studies conducted by various consultants. DMLW staff, along with other state and Federal permitting agencies have been reviewing the baseline data and providing feedback to the applicant. Work remains to be done on cultural resources, salmon related issues, and geotechnical concerns.

It should be noted that on June 14, 2007, DMLW received a petition to designate all lands within the Chuitna River watershed as unsuitable for surface coal mining. The lands unsuitable petition, filed by the Chuitna Citizens NO-COALition, claims that the proposed mining area is unique and that the complex stream and wetland hydrologic system warrants protection and renders reclamation technologically unfeasible.

In early June of 2008, there was a change of both the prime engineering contractor and the project manager for the Chuitna Coal Project, which brought into question the overall future timing of the project. The State received, during the 2008 oversight cycle, the Chuitna Coal Mine permit application, the Ladd Landing Development permit application and the Chuitna Coal Project Infrastructure permit application. The DMLW is in the early stages of reviewing the permit applications. See Section VII for a more detailed discussion of the Chuitna Coal Project.

The Artic Slope Regional Corporation (ASRC) announced in July, 2006 that it had signed a series of agreements with BHP Billiton (BHP) granting BHP exclusive rights to explore and possibly develop coal bearing lands held by ASRC in Northwestern Alaska in an area known as Deadfall Syncline. ASRC has conducted small scale coal exploration activities on its lands in the past, but by teaming with BHP it was hoped that full scale production was going to be in ASRC's future as the preliminary findings appeared promising.

BHP operated two drill rigs at the site during the 2007 and 2008 evaluation cycles, generating geotechnical data. Also, BHP had initiated Fish and Wildlife and geotechnical studies with an eye towards preparing a mine permit application package for submission to DMLW. However, on July 16, 2009, a representative from BHP Biliton notified the DMLW Coal Regulatory Program Manager that the Deadfall Syncline area did not fit into the company's business model and that BHP was withdrawing from the project.

Also, at the beginning of the 2007 evaluation cycle, a Canadian company was the successful bidder for a 22,647 acre coal lease in the Chickaloon area north of Palmer, Alaska. The company planned to initiate coal exploration activities with an eye toward development. After several public outreach meetings and numerous protests against the project, the proponent withdrew, in June of 2007, all interest in the project.

III. Overview of the Public Participation Opportunities in the Oversight Process and the State Program

Historically, there has been minimal public participation in the Alaska coal program due to its small scale, the size and impact of the coal industry and the remoteness of the active mining operations. Until the last few years, there has been little interest on the part of the coal industry to expand existing operations or to develop new mining sites. As a result, public interest in coal mining and DMLW activities had been minimal.

As mentioned in previous oversight reports, the State and OSM have provided several opportunities over the years for public involvement in both permitting activities and overall SMCRA program development and administration. Both DMLW and OSM have published public notices over the years in the State's two largest newspapers (Anchorage and Fairbanks) announcing DMLW sponsored public meetings at which interested parties could provide input. Over the years, the State has made other attempts to solicit public input, with mixed success.

Public participation regarding regulations

The State, in conjunction with the Alaska Coal Association, sponsored a 2-day workshop on August 28 and 29, 2003 to discuss proposed changes to the Alaska surface coal mining program. An OSM representative participated in the workshop as well. After approximately 2 years of work, OSM completed its review of the Alaska program amendment and published its decision in the November 9, 2005 Federal Register. After several cycles of review and additional revisions being made during the 2007 evaluation cycle, the DMLW published the proposed final regulation package and provided for a public comment period. The State received 5 sets of comments (4 from the coal industry and 1 from a citizen's environmental group) and revised the rules package based upon the received comments. Prior to resubmitting the package to OSM for approval, the State was required to solicit public comments again because more than 12 months had passed since the initial public notice. DMLW published another public notice on March 21, 2008, giving notice of the final rule package submittal to OSM.

In partnership with their Assistant Attorney General, the DMLW revised the regulation package in preparation for adoption by the DNR Commissioner, which occurred on July 29, 2008.

Public participation in the Sutton area

Sutton is located approximately one hour northeast of Anchorage and has a higher population density than most of Alaska. With an increased interest in the coal resources located in this area and with greater potential for impacts, the State realized the necessity for meaningful public involvement. The DMLW publishes routine newspaper public notices and posts informational flyers throughout the Sutton community to notify the residents of activities related to coal resources development.

The DMLW staff continues to inform the Sutton Community Council, Chickaloon native community and Buffalo Mine Road Community Council of all coal related activities. This is accomplished by attending Council meetings, distributing informational flyers and by arranging site visits for interested parties when appropriate. DMLW has also encouraged coal industry representatives to attend Council meetings, make presentations concerning their intentions in the area and answer questions the residents may have.

As part of its Abandoned Mines Land (AML) program, the DMLW has been reclaiming abandoned coal mine waste piles in this same area and has found it useful to notify

routinely, the citizens of the status of the AML projects. DMLW management has realized the benefits of involving all local stakeholders as early as possible in the decision making process.

As previously mentioned, a Canadian firm acquired a 22,647 acre coal lease in the Palmer-Sutton area with the intention of initiating coal exploration activities in 2007-2008. The proposed exploration, with the possibility of mine development generated much public interest, mostly negative. Throughout the 2007 evaluation cycle, DMLW staff participated in numerous community meetings, made presentations, conducted interviews with both the print and radio media and conducted an informal conference. Due to the negative public interest, the proponent, Full Metal Minerals Inc., withdrew its plans to conduct exploration activities in the Chickaloon area.

Because of the outreach effort, public participation in the Sutton area is increasing. During the last few review cycles, public notices have generated a significant number of public comments that have been addressed by DMLW. The improved communications between DMLW and the Sutton community benefits all parties involved. On several occasions, local residents have notified DMLW staff about acts of vandalism at the permit sites as well as safety concerns involving smoldering coal waste.

In the autumn of 2008, DMLW conducted informational meetings for the Village of Chickaloon. Concerns were expressed regarding primary access, adverse impacts to the sustenance life style and socio-economic effects on the community. Local residents also sought information about the possibility of an existing permit holder expanding their coal exploration activities in the area.

Public participation associated with the Chuitna Coal Project

During the last three evaluation cycles, a significant amount of DMLW staff hours have gone into the Chuitna Coal Project. During the 2006 evaluation cycle, DMLW initiated and took the lead in developing a Memorandum of Understanding (MOU) between the U.S. Environmental Protection Agency (EPA), U.S. Army Corps of Engineers (COE), U.S. Fish and Wildlife Service (FWS) and the Alaska Department of Natural Resources. While the main purpose of the MOU was to establish a framework for coordinating the multi-agency processing of the Chuitna Coal Project permit application, the theme of public participation was woven throughout the document.

Due to the size and complexity of the proposed Chuitna Coal Project, public information and public involvement are critical components of this permitting process. During this evaluation year, there have been four meetings requested by the residents of the Beluga community. To date there have been approximately 150 meetings between state and Federal agencies, the applicant, native entities, the media and the general public.

DMLW conducted four joint meetings with the EPA and COE, the two lead Federal permitting agencies. Two of those meetings were held in the vicinity of the Tyonek native village in order to present updated information regarding the Chuitna Coal Project.

The meetings also addressed concerns about cultural resources, health impacts assessments and water management issues related to the project.

The DMLW is increasingly using the Internet to publicize permitting decisions, post permitting and other related documents, and to solicit public participation and input. The DMLW has put all of the coal permits on CD's and made them available to the public. Additionally, DMLW has placed a copy of the Wishbone Hill and Jonesville Mine permits in the Sutton and Palmer public libraries for public viewing.

Other outreach

The DMLW provided outreach to local schools by staffing booths at three career fairs held in the Anchorage area during this evaluation year. Staff members informed students about potential careers in the mining and natural resources fields. Students gained exposure to the natural sciences by participating in discussions with the DMLW staff.

IV. Major Accomplishments/Issues/Innovations in the Alaska Program

After many years of inactivity, the DMLW submitted to OSM, in September of 2002, an informal program amendment package intended to address 78 program issues identified by OSM. OSM staff worked with DMLW staff to address identified deficiencies. Also, OSM and DMLW staff met with members of the Alaska Coal Association to address concerns and answer their questions. It all came to fruition when DMLW submitted its formal program amendment package to OSM on May 11, 2004. OSM completed its review of the State's proposed regulation package and published notice in the Federal Register on November 9, 2005, approving the State's submission. The State conducted its final review and initiated some formatting revisions to the rules package. Upon completion of the modifications, the rule package went to public notification for 30 days. The DMLW received 5 sets of comments (4 from industry representatives and 1 from a citizens' environmental group) and revised the rules package based upon the received comments. Prior to resubmitting the package to OSM for approval, the State was required to solicit public comments again because more than 12 months had passed since the initial public notice. DMLW published another public notice on March 21, 2008, giving notice of the final rule package submittal to OSM.

In partnership with their Assistant Attorney General, DMLW revised the regulation package in preparation for adoption by the DNR Commissioner, which occurred on July 29, 2008.

During the 2008 evaluation period, DMLW staff, working with their counsel from the Attorney General's Office, prepared a request for proposal, interviewed candidates, selected an individual and awarded a contract to reorganize and reformat the Alaska Surface Mining Control and Reclamation Act regulations. To date, the coal regulatory program has had a different codification system for their regulations than all other State

agencies. The DMLW has been instructed to re-codify their program regulations and bring them into compliance with the Alaska Annotated Code numbering system. It is anticipated that this effort will be completed by July 1, 2010.

As part of its data management system, the DMLW has accumulated and cataloged thousands of digital photos of all active operations, exploration sites and areas of potential coal mining. The Alaska Department of Natural Resources has adopted the system of digital photo storage and retrieval developed by DMLW. This will dovetail with the State's data management system intended to integrate appropriate information from other Divisions within DNR for use by the DMLW staff.

DMLW, at the end of this evaluation cycle, was fully staffed. The former Manager of the coal regulatory program took a position last year with another Division within DNR. This resulted in the reassignment of a DMLW staff person into the management position leaving a vacancy. Presently, both the Coal Regulatory Program Manager's position and a staff position are filled with highly qualified individuals.

Very little coal remains to be mined at Poker Flats, which has prompted the DMLW staff to work closely with the UCM staff to achieve as much reclamation as possible at the Poker Flats Mine. The State and mine staff have worked together to develop accurate maps identifying reclamation timelines, reclamation status and other relevant field features. This effort will culminate with UCM attempting to complete all remaining mining, backfilling, grading and re-soiling work within the next 18-24 months. During the 2005 review cycle, the operator backfilled and graded 31 acres and re-soiled/reseeded approximately 46 acres. During the 2006 evaluation cycle, 50 acres were backfilled and graded. UCM backfilled and graded approximately 53 acres and seeded approximately 92 acres during the 2007 evaluation cycle. No requests for bond release were filed with DMLW during this review cycle. During the 2008 review cycle, UCM backfilled and graded approximately 56 acres, most of it at the Poker Flats Mine. During this evaluation period, UCM backfilled and graded an additional 20 acres, split between the Poker Flats Mine and the Two Bull Ridge Mine. It is anticipated that UCM will request all Phase I and Phase II bond releases at the same time.

The active mining at the Gold Run Pass Mine is winding down with little coal remaining to be mined. During the 2004 evaluation period, UCM applied for and was approved for Phase I and Phase II bond release for approximately 70 acres. This comprises mining areas 1 through 4 with only mining area 5 remaining to be mined and reclaimed.

A few years ago, OSM cooperated with Alaska DNR in the development of a computer based training room located within the DMLW office space. The collaborative effort resulted in a training facility with 16 student workstations and 1 instructor workstation with a ceiling mounted projector. This training facility is further discussed in Section VI, OSM Assistance.

The DNR has created a central GIS data base management group that is working with a coal program staff person to create a permitting data base system that would be

compatible with a larger state wide system. The goal is to create a common system that is web accessible. Several other state agencies have GIS data systems, but currently there is no centrally based system at either DNR or at the State level. The initiative is called Land Records Information System (LRIS).

DMLW has made digital versions of all active mine permit application packages available for viewing on the internal DNR network. Also, the DMLW has posted information about the Alaska coal regulatory program on its website. For those interested, the Internet address is:

www.dnr.state.ak.us/mlw/index.htm

The DMLW is effectively maintaining and administering the coal regulatory program in accordance with the Alaska Surface Coal Mining and Reclamation Act.

V. Success in Achieving the Purposes of SMCRA as Determined by Measuring and Reporting End Results

To further the concept of reporting end results, the findings from performance standard and public participation evaluations are being collected for a national perspective in terms of the number and extent of observed off-site impacts, the number of acres that have been mined and reclaimed and which meet the bond release requirements for the various phases of reclamation, and the effectiveness of customer service provided by the State. Individual topic reports which are available in the Olympia, Washington OSM Office provide additional details on how the following evaluation and measurements were conducted.

A. Off-site Impacts

During the 2009 evaluation cycle, the DMLW inspection staff did not observe any off-site impacts. OSM staff participated in a mine site visit in Alaska in June 2009 as part of the oversight evaluation. An OSM inspector conducted joint oversight inspections with staff of the DMLW in August of 2009. Due to climatic conditions and the shortness of the planting and growing season in Alaska, OSM schedules its field activities as late in the summer as possible, so as to observe as much recent reclamation work and vegetative growth as possible.

During the joint DMLW-OSM inspections, several problems were observed at the UCM operations located in the Healy Valley. One problem, failure to maintain a drainage control berm along the edge of an active pit resulted in sediment and water flowing out over undisturbed ground into the Francis Creek drainage system within the permit boundary. Although not technically an off-site impact, if left unresolved, the sediment

and drainage could have entered Francis Creek and eventually flowed downstream to Sanderson Creek and off of the permit. Although outside of the 2009 evaluation cycle, DMLW issued a Notice of Violation to the operator on August 31, 2009, which the operator abated on September 3, 2009. During the inspections, several other problems were observed and addressed through OSM's Ten-Day Notice (TDN) process. The state and OSM will address this matter as part of the routine oversight process.

B. Reclamation Success

As reported in the 2006 annual evaluation report, Alaska released Phase I and Phase II bond on approximately 70 acres at the Gold Run Pass Mine. The DMLW has not released any reclamation bonds during the last three evaluation cycles. During the 2005-2008 evaluation cycles, Usibelli Coal has backfilled and grade approximately 190 acres and re-vegetated approximately 140 acres, all located within the Healy Creek Valley. During this evaluation period, UCM backfilled and graded an additional 20 acres, split between the Poker Flats Mine and the Two Bull Ridge Mine. Coal removal is winding down at both the Gold Run Pass Mine and the Poker Flats Mine, so reclamation activities should continue to increase in the coming years.

C. Customer Service

The DMLW has actively sought to increase public awareness and involvement in the administration of its coal program. With recent leasing/re-permitting/AML activities taking place in the more populated Sutton area along with the controversial Chuitna Coal Project, the public has shown more interest in Alaska's coal program. DMLW attempts to meet regularly with the Sutton Community Council, the Chickaloon native community and the Buffalo Mine Road Community Council and when appropriate, make coal industry staff available to the interested groups. The DMLW staff, on numerous occasions, has conducted site visits with interested citizens living in the Sutton area. The improved communications between DMLW and the Sutton community benefits all parties involved.

Early in the process, the DMLW, in conjunction with the two other Federal lead permitting agencies, EPA and COE, conducted four public scoping meetings and scoping open houses pertaining to the Chuitna Coal Project. The permitting agencies, mainly DMLW, have taken extraordinary measures to keep the public informed and to provide opportunities for public participation.

Due to the size and complexity of the proposed Chuitna Coal Project, public information and public involvement are critical components of the permitting process. During this evaluation year, there have been four meetings requested by residents of the Beluga community. Two of the meetings were held in the vicinity of the Tyonek native village in order to present updated information regarding the Chuitna Coal Project. The meetings also addressed concerns about cultural resources, health impact assessments and water

management issues related to the project. To date, there have been approximately 150 meetings between state and Federal agencies, the applicant, native village representatives, the public, the environmental community, the media and the general public. The DMLW also created a web site specifically for people interested in the Chuitna Project.

Toward the end of the 2007 evaluation cycle, a citizens' coalition filed a petition to designate the Chuitna River watershed as lands unsuitable for surface coal mining. Prior to the formal submission of the petition, staff from DMLW met with members of the coalition on several occasions in an attempt to address their concerns.

As previously noted, the DMLW, in conjunction with OSM, attended a 2-day working session with members of the Alaska Coal Association to identify issues associated with the State's proposed program amendment. The amendment package was formally submitted to OSM in May of 2004. OSM published a public notice announcing receipt of the proposed regulation package and the opportunity to provide comments. OSM took the comments into consideration while conducting its review of the State's package. OSM announced its approval of the rules package in the November 9, 2005 Federal Register. As previously discussed, DMLW published its proposed final rules package that had been approved by OSM and provided a public comment period. The state received 5 sets of comments (4 from the coal industry and 1 from a citizens' environmental coalition), and revised its rules package based upon the received comments. Prior to resubmitting the package to OSM for approval, the State was required to solicit public comments again because more than 12 months had passed since the initial public notice.

VI. OSM Assistance

Throughout the evaluation cycle, OSM staff from the OSM Olympia Area Office and the OSM Western Region (WR) provided informal, undocumented assistance to DMLW staff. Primarily, the assistance was generated by telephone inquiries concerning permitting, procedural/administrative or technical issues. The small size of both the DMLW staff and the Olympia Area Office staff lends itself to such informal communications.

On a more formal note, although the service is available, OSM's Technical Librarian, located in Denver, did not receive any requests for services from DMLW staff or provide any technical journals or reports to DMLW staff during this evaluation period. Additionally, the Alaska Service Manager from OSM's Division of Technical Innovation and Professional Services (TIPS) provided on-site consultation to both Title IV and Title V program staff concerning information technology support.

A few years ago, OSM worked with the Alaska DNR in the development of a computer-based training room located at the DMLW office. This training facility commenced operation in September of 2005. The collaborative effort, as formalized in a Memorandum of Agreement (MOA), calls for DNR to provide space and equipment with

OSM providing software and training materials. Additionally, OSM provides trainers at a nominal fee and allows DNR staff to attend TIPS training classes at the training facility at no cost. OSM anticipates utilizing the training center for TIPS and National Technical Training Program (NTTP) training when advantageous.

DMLW staff control the scheduling for the computer training facility. The facility can accommodate 16 students at fully equipped work stations with 1 instructor work station, supported by an overhead projector. The classes vary widely, but technical generic software is emphasized. The class room is also utilized for non-technical generic software training courses. During this evaluation period, 57 classes and training sessions were held in the TIPS training room, including ArcGIS, ArcPad, Ajax software, Alaska Mapper and OHA training.

The computer training facility has also been very popular with other divisions within DNR. The room has been utilized for routine meetings by a DNR team tasked with creating an updated Land Records Information System (LRIS). Other Departments within state government, as well as the coal industry and Native Corporations have shown interest in receiving mining and reclamation software training using the facility.

In addition to classes provided at the TIPS training facility in Anchorage, DMLW staff have attended several NTTP and TIPS classes held at various locations throughout the United States during this evaluation cycle.

In April of 2009, OSM's Grant Management Specialist from the WR office conducted an on-site review of both the Title IV and Title V grants. The review did not identify any problems associated with administration of either grant. In addition to conducting the grants review, OSM's Grant Management Specialist met with members of the DMLW fiscal and administrative staff to answer questions and share information.

During the 2008 evaluation cycle, the State of Alaska submitted a formal request to OSM's Western Region for technical support in the area of groundwater hydrology as it relates to predictive modeling and permit application review. The DMLW anticipated needing assistance in reviewing the groundwater component of the Chuitna Coal Project application. OSM committed to providing the assistance needed by the State. During this evaluation cycle, the OSM groundwater hydrologist participated in several teleconference calls with the state, consultants, other Federal permitting agency representatives and company officials, primarily discussing the design of the model being developed to assess groundwater resources in the projected mining area.

TIPS staff assisted the State by providing numerous software upgrades. For a complete list of software upgrades provided to the state, visit the TIPS website at www.tips.osmre.gov.

Three staff members from the DMLW participated in five training opportunities during this evaluation cycle for a cost of approximately \$6,600 with one Alaska DMLW employee having taught some TIPS classes.

TIPS provided several pieces of equipment to Alaska for actual use or for evaluation and testing purposes. The state was also provided remote sensing imagery of the Usibelli Mines.

VII. Oversight Topic Reviews

Program oversight activities and oversight related discussions between Alaska DMLW and OSM occur routinely and regularly throughout the entire evaluation cycle. This is possible due to the small and stable population of operating mines in Alaska. Another key to the success of this approach is the solid, day-to-day working relationship and open lines of communication between DMLW staff and OSM staff. Due to the small size of the DMLW staff and the OSM Olympia Area Office staff, there is a great deal of discussion about routine program matters and operational issues. This approach has resulted in an informal and comfortable relationship that allows for the easy transfer of ideas and information. As a result of this approach, there are rarely any surprises involving program implementation.

OSM and DMLW each have an individual designated as the lead program evaluation team representative to handle routine oversight matters. Should the need arise, technical specialists from OSM's WR or specialists from other agencies within state government would be involved in the program evaluation process.

The 2009 Annual Evaluation Plan identified 3 specific program review elements slated for review, 1) Chitna Coal Project, 2) program maintenance, and 3) evaluation of selected surface water control structures on Usibelli Coal Mine permits. Unfortunately, OSM's surface water hydrologist slated to evaluate UCM's surface water structures was reassigned and unable to undertake this project. Therefore, a review of the siltation structures did not take place during this review cycle. It is hoped this effort can be accomplished during the 2010 evaluation period. As a result, two topics were evaluated; the first is an on-going evaluation of DMLW's efforts to bring to closure a program amendment package addressing approximately 80 issues identified by OSM.

The second topic involves review of DMLW's processing, to date, of a proposed permit application from PacRim Coal LP, for a project known as the Chitna Coal Project. This proposed project will be very complicated, involving 3 separate DMLW permits along with several other State and Federal permits. DMLW has been reviewing baseline data packages submitted by numerous consulting firms. Additionally, late in the 2007 evaluation cycle DMLW received a petition to designate the proposed site as unsuitable for coal mining.

In addition to evaluating these individual program components, OSM Olympia, throughout the evaluation year, receives and reviews copies of all inspection reports, all enforcement documents, grant documents and permitting related documents.

➤ **Chuitna Coal Project**

The Chuitna Coal Project is a proposed surface coal mining and export development project located in the Beluga Coal Field of Southcentral Alaska, approximately 45 miles west of Anchorage. The proposed project includes: a surface coal mine and associated support facilities (Chuitna Coal Mine); a mine access road, coal transport conveyor, personnel housing and an air strip facility (Chuitna Project Infrastructure); and, a logistics center and coal export terminal (Ladd Landing Development). The coal export terminal will include a 10,000-foot long trestle built out into Cook Inlet for the purpose of loading ocean-going transport ships.

This lease area was the subject of a permit review and Environmental Impact Statement (EIS) in the late 1980's and early 1990's. After the State regulatory authority announced its decision to approve the permit, an appeal was filed and upheld, in part, by the Court. That decision resulted in lengthy delays which, when combined with a downturn in the coal market, killed the project. Since that time, there have been major changes in the regulatory requirements as well as the proposed project itself; for these reasons, it was decided by the regulatory community that a comprehensive Supplemental Environmental Impact Statement (SEIS) will be prepared. The SEIS will replace the initial EIS in its entirety.

On October 18, 2005, the applicant and its consultant / legal team met with representatives of EPA, COE, DNR and OSM in Seattle to provide introductory information on the proposed project and solicit feedback from the regulatory community. This pre-application, pre-scoping meeting generated a very valuable exchange of questions and information among the participants. Based on the comments received at the pre-application meeting, the applicant modified its proposal prior to submitting material to the EPA.

On March 17, 2006, PacRim submitted to the U.S. Environmental Protection Agency's (EPA) Region 10 office in Seattle, Washington, a new source National Pollutant Discharge Elimination System (NPDES) permit application for the Chuitna Coal Project. This action by the applicant started the permitting process. EPA is the lead agency in the preparation of the SEIS with the U.S. Army Corps of Engineers and the Alaska Department of Natural Resources being cooperating agencies. The U.S. Fish and Wildlife Service will participate as a consulting agency.

The DMLW, working with the other key permitting agencies, developed a Memorandum of Understanding (MOU) to establish a framework for coordinating the permitting efforts associated with the Chuitna Coal Project. Due to the size and complexity of the issues associated with this project, the permitting effort will involve many State and Federal agencies, many with no prior experience in permitting coal mines. The DMLW, in the MOU, identifies the various laws that must be complied with and associated permits that must be issued before the Chuitna Coal Project becomes operational.

The main purpose of the MOU was to coordinate the regulatory process to the maximum extent possible, by preventing needless duplication and paperwork, sharing resources where possible, establishing reasonable schedules, coordinating data collection, conducting joint meetings when possible; generally maximizing use of available resources and minimizing duplication of overlapping agency responsibilities. The MOU was signed in May, 2006, by the Commissioner of the Alaska Department of Natural Resources, the Deputy Regional Administrator of the U.S. Environmental Protection Agency, the Chief of the Regulatory Branch of the U.S. Army Corps of Engineers and the Field Supervisor of the Anchorage Office of the U.S. Fish and Wildlife Service.

On May 2, 2006, an agency scoping meeting was held to discuss the Chuitna Coal Project. Agency scoping is the first phase of the NEPA process. The intent of this phase of scoping was to inform the involved agencies about the project and to solicit their participation and input in the permitting process.

The public scoping process began on June 9, 2006 with the Federal Register publication of a Notice of Intent to prepare a Supplemental Environmental Impact Statement (SEIS) that will evaluate the potential impacts of the proposed project. The notice, published jointly by the three primary permitting agencies, announced four opportunities for the public to attend scoping open houses and public meetings and to tell public officials what they think should be evaluated and to discuss potential impacts of the proposed project. Two of the public meetings were held within the Tyonek native community to solicit comments specific to native concerns. The public scoping meetings took place in early to mid-July of 2006.

The permitting agencies, particularly DMLW, have taken extraordinary measures to keep the public informed and to maximize opportunities for public participation. The DMLW and other involved agencies have conducted or participated in approximately 150 meetings between state and Federal agencies, the applicant, native village representatives, the general public, the environmental community and members of the media. To address concerns expressed by the Village of Tyonek concerning the perceived lack of attention to Native issues regarding the Chuitna Coal Project, DNR staff conducted 4 special meetings during this evaluation cycle to listen to concerns about the project. The DMLW also created a web site specifically for people interested in the Chuitna Coal Project. It should be noted that several of the permitting agencies have never participated previously in the review of a surface coal mine permit application.

During the 2007 valuation cycle, the applicant, PacRim, through its numerous consultants, gathered data and started to submit baseline data reports to DMLW. The permitting agencies have been reviewing numerous reports and providing comments back to the applicant. By the end of this evaluation cycle, all of the baseline data reports have been reviewed with additional work needed in the areas of cultural resources, salmon related issues and geotechnical data.

On June 14, 2007, the Alaska DNR received a petition to designate all lands within the Chuitna River watershed as unsuitable for surface coal mining activities. The petition was filed by The Chuitna Citizens NO-COALition, an alliance of local residents, property owners and conservation groups concerned about impacts from the proposed Chuitna Coal Project. The Trustees for Alaska, a nonprofit public law firm is providing legal counsel to the petitioners.

The petition area, the entire Chitna River watershed, encompasses approximately 150 square miles, or about 96,000 acres on the western shore of Cook Inlet. The petitioners claim that the Chuitna River, a 17 mile non-glacial river with approximately 12 tributaries supports a world-class fishery of all five species of North American Pacific wild salmon, trout and Dolly Varden and provides important habitat for moose, bald eagles, grizzly and black bears and coastal wetlands for ducks, geese and shorebirds. The petitioners state that the area's unique and complex stream and wetland hydrologic system warrants protection as well as renders reclamation technologically infeasible.

The Deputy Commissioner of DNR, after a review of the petition, responded to the petitioners on July 16, 2007. In its response, the state returned the petition to the petitioners on the basis that it included lands that the state found to be exempt from the petition process. In addition, the DNR notified the petitioners that other portions of the petition document were incomplete while other portions were found to be without merit. The DNR complied with the regulatory requirements at 11 AAC 90.703(a) by notifying the petitioners of its completeness decision within 30 days of receipt.

On August 6, 2007, the petitioners submitted a written request for the Commissioner of DNR to reconsider the state's initial decision to return the lands unsuitable petition. On August 13, 2007, the Commissioner granted the petitioners request for reconsideration. On September 18, 2007 the Trustees for Alaska requested that the DNR Commissioner expedite the request for reconsideration.

On February 14, 2008, DNR Commissioner Irwin issued his decision regarding the petitioner's request for reconsideration. In his response, the Commissioner reaffirmed his initial decision from July 16, 2007 by finding: 1) the LMU-1 petition lands are ineligible for designation because they were previously evaluated as part of the initial permitting review effort; 2) the petition regarding the remaining portion of the petition area is incomplete; 3) the petition is frivolous; and, 4) the petition assumes that the program standards and requirements for surface coal mining operations cannot prevent the adverse impacts identified in the petitioners allegations.

On March 17, 2008, the Trustees for Alaska appealed the decision to the State's Superior Court. Both parties are scheduled to file their respective briefs with the court after the end of this evaluation cycle. OSM continued to monitor this issue during the current evaluation period.

Based on its conversations with the Trustees for Alaska, the DMLW anticipates receiving a revised Lands Unsuitable Petition for the Chuitna Coal Project sometime during the

2010 evaluation period. The attorney who filed the initial Lands Unsuitable Petition on behalf of the Trustees has left the organization; but, it is anticipated that two attorneys, new to the organization, will handle matters involving the Chuitna Coal Project.

In early June of 2008, there was a change of both the prime engineering contractor and the project manager for the Chuitna Project, which brought into question the overall timing of the project. The State received, during the 2008 oversight cycle, the Chuitna Coal Mine permit application, the Ladd Landing Development permit application with the Chuitna Project Infrastructure permit application being submitted at the end of the last evaluation cycle.

During the 2009 evaluation cycle, PacRim has been updating several components of its permit application package, most notably some baseline data studies regarding fisheries resources, and hydrology. PacRim anticipates submission of all outstanding permit application information by the end of the year. Upon receipt of the additional information, the DMLW will initiate its completeness review.

During this evaluation year, there have been four meetings requested by the residents of the Beluga community. Additionally, DMLW conducted four joint meetings with the EPA and COE, the two lead Federal permitting agencies for the Chuitna Coal Project. Two of these meetings were held in the vicinity of the Tyonek native village in order to present updated information regarding the Chuitna Coal Project. At these meetings, the agency representatives addressed citizen concerns regarding cultural resources protection, health impact assessments and water management/protection issues related to the project.

As previously mentioned, OSM's groundwater hydrologist is heavily involved in the review of the groundwater component of the Chuitna permit application. He is part of a hydrology sub-group formed to develop technical review standards to assess the validity of the numeric groundwater model being developed by PacRim's consultant. It is anticipated that considerable time will be committed by OSM's hydrologist to the Chuitna Coal Project during the 2010 evaluation cycle.

➤ Program Maintenance

This topic, a follow-up topic from previous years was selected because not much was done to address program maintenance prior to the 2001 evaluation cycle. In late 2001, OSM's Management Council identified program maintenance as a high priority for the agency. This was due in part because some citizen-based lawsuits had been filed against some other State regulatory agencies for not adequately maintaining their approved program in accordance with SMCRA. During the 2001 evaluation year, OSM prepared and forwarded to DMLW a complete list of modifications needed to bring the Alaska program into compliance with the Federal program. The State committed to working with OSM to resolve the remaining issues.

A tentative schedule and draft list of program revisions were submitted by DMLW to OSM for review and comment. Due to budget constraints and the events of September 11, 2001, a working meeting planned in Anchorage did not take place. Numerous telephone conversations between OSM staff and DMLW staff concerning program amendment issues took place during that evaluation year. During the 2002 evaluation year, the DMLW staff made working on the program amendment a top priority. An OSM staff member spent one week in Anchorage working with the State staff to resolve some issues and to provide some guidance on this matter.

A follow-up meeting was held in Anchorage in early September of 2002, to resolve a few remaining issues and to review a draft informal program amendment package. After making some last minute revisions based on those discussions, DMLW submitted an extensive informal program amendment package to OSM in late September 2002. The amendment package was intended to address approximately 80 issues identified by OSM over the years.

OSM conducted a detailed review of the State's informal submission and developed a list of items that needed to be addressed. On April 30, 2003, OSM mailed to DMLW a letter identifying those items. DMLW staff and OSM staff met in Olympia Washington on May 15, 2003, to discuss the identified deficiencies. Based on that discussion, several items were able to be removed from the deficiency list. OSM followed up that meeting with a second letter, dated May 29, 2003, identifying the agreed upon remaining deficiencies.

On May 11, 2004, DMLW submitted to OSM its formal program amendment package. OSM staff conducted an extensive review of the formal submission and announced its receipt and availability for review and comment by the public in the July 19, 2004, Federal Register. OSM received comments from the Anchorage office of the Bureau of Land Management. OSM notified Alaska on October 4, 2004, of the identified issues concerning the program submission. Alaska responded in a letter dated April 1, 2005, by submitting a revised amendment package. Based upon Alaska's revisions to its amendment, OSM reopened the comment period in the June 23, 2005, Federal Register.

OSM received comments from one Federal agency and one local agency. After addressing the comments, OSM announced its approval of the rules package in the November 9, 2005 Federal Register.

During the 2006 evaluation cycle, the State initiated some formatting revisions as well as some housekeeping measures. Upon completion of the modifications, the rules package went to public notification for a minimum of 30 days due to the length of time since the last public notification. The DMLW received 5 sets of comments (4 sets from the coal mining industry and 1 set from the Trustees for Alaska, a citizens' environmental coalition). Based on the comments received, DMLW decided to revise slightly the amendment package. Additionally, DMLW inadvertently deleted Article 18 from its regulation package that was published for public review and comment. Article 18 is the "Definitions" section of Alaska's surface coal mining regulations. In addition to the minor changes DMLW made to the rules package, it reinserted the "Definitions" section. Due to the changes, DMLW republished on March 21, 2008, the availability of the regulation package for public review and comment. The 60 day comment period closed on May 23, 2008.

Based upon comments received, the DMLW and Attorney General's Office modified the regulation package between May and July 22, 2008. On July 29, 2008, Tom Irwin, Commissioner of Alaska's Department of Natural Resources adopted the regulation package which was then submitted to the Attorney General's Office for final agency review. The Lt. Governor signed off on the regulations in March of 2009, after which DMLW submitted a copy to OSM, identifying the modifications made to the package. OSM is scheduled to meet with staff from DMLW in mid-September, 2009 to discuss the state's regulation package. Since the regulation package is slightly different than the one approved by OSM, OSM will have to republish the public notice. Any OSM identified deficiencies will require additional input from the Department of Law prior to adoption by the State. The goal is to have this regulation package finally adopted during this evaluation cycle.

For more information on these evaluation topics, or any other aspect of the 2008 annual oversight process, feel free to contact:

Office of Surface Mining
Evergreen Plaza Building, Suite 703
711 Capitol Way
Olympia, Washington 98501
Attn: Glenn Waugh
(360) 753-9538
gwaugh@osmre.gov

APPENDIX 1

These tables present data pertinent to mining operations and State and Federal regulatory activities within Alaska. They also summarize funding provided by OSM as well as Alaska staffing. Unless otherwise specified, the reporting period for the data contained in all of the tables is the same as the evaluation year. Additional data used by OSM in its evaluation of Alaska's performance is available for review in the evaluation files maintained by the Olympia, Washington OSM Office.

Table 1

When OSM's Directive REG-8, Oversight of State Programs, was revised in December 2006, the reporting period for coal production on Table 1 was changed from a calendar year basis to an evaluation year basis. The change was effective for the 2007 evaluation year. However, with Change Notice REG-8-1, effective July 1, 2008, the calendar year reporting period in Table 1 for coal produced for sale, transfer or use was reestablished and is effective for the 2008 evaluation year. In addition, for the 2008 evaluation report, coal production for the two prior years reported on Table 1 was recalculated on a calendar year basis so that all three years of production reported in the table are directly comparable. This difference in reporting periods should be noted when attempting to compare coal production figures from annual evaluation reports originating both before and after the December 2006 revision to the reporting period.

APPENDIX 2