

**OFFICE OF SURFACE MINING
RECLAMATION AND ENFORCEMENT**

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

EVALUATION YEAR 2010
JULY 1, 2009 to JUNE 30, 2010



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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 Department of Natural Resources (DNR), Division of Mining, Land and Water (DMLW) in meeting the applicable purposes of SMCRA, as specified in Section 102. This report covers the period of July 1, 2009 to June 30, 2010. 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:

AES	Alaska Earth Sciences
AML	Abandoned Mine Lands
ASCMCRA	Alaska Surface Coal Mining Control and Reclamation Act
ASRC	Arctic Slope Regional Corporation
BHP	BHP Billiton
CIRI	Cook Inlet Regional Native Corporation
COE	U.S. Army Corps of Engineers
CVTC	Chickaloon Village Traditional Council
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

HIA	Health Impact Assessment
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
TDN	Ten Day Notice
TIPS	Technical Innovation and Professional Services
UCM	Usibelli Coal Mine Inc.
UCG	Underground Coal Gasification
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, 125 people are employed by UCM. Even though the Healy area economy has become 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 125 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 2010 evaluation cycle, UCM produced approximately 1,861,712 tons of coal. Approximately one-half of the product was transported by rail to the coal load-out facility located in Seward, Alaska for export to Japan, Chile and South Korea. 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 officials anticipate producing in excess of 2,000,000 tons of coal during the 2011 cycle.

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 2006 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 close to 400 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.

In 1997 UCM assumed, through permit transfer, the leasing and mining rights to two additional DMLW permits as well as an exploration permit. The permits are located in an area known as Wishbone Hill, about 1 hour northeast of Anchorage, near the town of Sutton. UCM had planned to develop this area when the economics and the coal market were right. Considering that transportation concerns and costs often make Alaska coal economically unfeasible, the location of UCM's Wishbone Hill permits, it was thought,

would trigger increased mining activity in the State. The DMLW renewed UCM's exploration permit in early July of this year which triggered three appeals in response to the State's action. Due to the public interest regarding coal related activities in this area it was decided to evaluate the Wishbone Hill Project as one of the oversight review topics. For a more detailed discussion, see Section VII.

UCM has developed a conceptual design of a mine mouth power plant near an area known as Jumbo Dome, located north of their current Healy 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 1-2 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 2009 evaluation cycle. In 2008 Alaska Earth Sciences (AES) did enter into a partnership with the permittee, Sutton Partners LLC, 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: however active coal mining appears to be no closer to reality than in years past.

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 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 salmon related issues, hydrology 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 continuing to review the permit applications and provide comments to the applicant. 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 expects to fully withdraw from the project by the end of 2010.

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.

Over the last two evaluation cycles, the DMLW has received several inquiries and request for information regarding Underground Coal Gasification (UCG) projects. The State has established an UCG working group and has designated DMLW's coal regulatory program as the principle authority to authorize all exploration and permitting activities.

Currently, two potential applicants are in various phases of their respective projects. The Cook Inlet Regional Native Corporation (CIRI) applied for and was granted an exploration permit to drill five exploration holes, varying in depth from 1,700 to 2,700 feet and conduct geophysical logging, petrologic studies, and coal quality studies. CIRI plans to drill six additional test holes. If the project comes to fruition, it would provide syngas to a 100 megawatt power plant being proposed by the CIRI Corporation.

Linc Energy, an Australian company with ongoing projects in Australia and Uzbekistan, has acquired two oil and gas leases on the west side of Cook Inlet. During this evaluation cycle, Linc Energy applied to DNR for a coal prospecting permit on its oil and gas leases so as to develop an UCG project.

Lastly the State is planning on opening bids in late Summer of this year for proposed UCG projects on State Mental Health Trust Lands. This activity, and the uncertainty associated with regulating it is cause for concern for DMLW management. The current staff is stretched very thin with the existing workload; any additional work associated with administering the UCG program could be overwhelming.

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 prior to 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. DMLW submitted on January 5, 2010 and again on April 9, 2010, an informally proposed amendment package to OSM for consideration. OSM completed its review and provided comments to DMLW on April 20, 2010. For more detailed information on the program amendment process, see Section VII.

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 the work associated with DMLW's renewal of the Wishbone Hill Exploration permit creating much public interest, both positive and negative, the State realized the necessity for more meaningful public involvement. The DMLW routinely publishes newspaper public notices, posts permitting related information on its web site, 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 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 be proactive regarding their intentions by attending Council meetings, making presentations concerning their activities in the area and answering questions the residents may have.

During this evaluation cycle, UCM increased its activities by initiating the renewal of its exploration permit. The DMLW conducted or participated in three meetings regarding the activities at Wishbone Hill. Due to the extent of public interest, the DMLW extended the

public comment period regarding the renewal of the exploration permit. For more details on the Wishbone Hill project, including three appeals filed against DMLW's renewal of UCM's exploration permit, see Section VII.

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 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. DMLW staff also works with local officials and the public in an attempt to prevent illegal entry and vandalism on the reclaimed sites.

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. The proposed exploration activity, with the possibility of mine development, generated much public interest, mostly negative. The 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.

DMLW has conducted informational meetings for the Village of Chickaloon. Concerns were expressed regarding primary access, adverse impacts to the subsistence life style and socio-economic effects on the community. One of the appeals filed against the renewal of UCM's exploration permit was submitted on behalf of the Chickaloon Village Traditional Council (CVTC). 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 time has 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. To date there have been over 150 meetings between state and Federal agencies, the applicant, native entities, the media and the general public with two more public meetings having been held during this evaluation cycle.

DMLW has conducted numerous joint meetings with the EPA and COE, the two lead Federal permitting agencies involved with this project. 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 impact assessments and water management issues related to the project. As a result of the interest in the Chuitna Project and the DMLW's public outreach effort, the State has received over 170 public comments regarding the project.

Other outreach

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.

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 prior to 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.

Alaska submitted to OSM on January 5, 2010, an informally proposed program amendment package with additional modifications to that package being submitted on April 9, 2010. OSM completed its review of the revised amendment package and provided comments to DMLW on April 9, 2010. The DMLW staff, in conjunction with the Department's legislative compliance staff is revising the regulation package and plans to submit it to OSM in the fall of 2010.

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 (ASMCRA) 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. The contract attorney has been working on the recodification effort and it is anticipated that this effort will be completed by the end of 2010.

On November 1, 2010, the State of Alaska is slated to assume authority for issuing National Pollutant Discharge Elimination System (NPDES) permits from the US EPA. Due to its NPDES authority, the EPA was designated the lead Federal agency on the Chuitna Project and therefore the lead on preparing the Supplemental Environmental Impact Statement (SEIS). As a result of the transfer of NPDES jurisdiction, the EPA is relinquishing its role as lead Federal agency on the project to the COE. Staff from the DMLW have been coordinating with both Federal agencies to minimize the adverse impacts from the change. See Section VII for more detailed information on the Chuitna Project.

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; however, OSM's reviewers identified some concerns associated with the current staffing level. The increase in coal related activities throughout the State has taxed the existing staff. The increase in permitting and exploration activities has placed a burden on the permitting team who also double as field inspectors. With the increased public interest, the staff must also conduct all public meetings, conduct outreach efforts, respond to the multitude of written public comments as well as process the Lands Unsuitable Petition filed in opposition of the Chuitna Project and three appeals filed against the Wishbone Hill Project. OSM strongly encourages DMLW management to explore all available options for increasing its staff.

UCM has completed all coal removal activities at its Gold Run Pass Mine and has submitted to DMLW a Phase III bond release request for 68 acres. The State has

conducted its final bond release inspection with UCM preparing to submit a notarized document requesting release. DMLW will then publish notice of UCM's request and conduct a hearing if so requested.

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 Geographic Information System (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.

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

DMLW and OSM are finalizing public outreach efforts to solicit input regarding the oversight process, recommendations for review topics for the 2011 evaluation cycle and any other suggestions for improving future oversight activities.

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, the effectiveness of customer service provided by the State, the State's implementation of its approximate original contour provisions, and the adequacy of the State's bonding program. 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 2010 evaluation cycle, the OSM inspector, along with the DMLW inspection staff, did observe one off-site impact. OSM staff participated in a mine site visit in Alaska in June 2009 as part of the oversight evaluation process and an OSM inspector conducted joint oversight inspections with staff of the DMLW in August of 2009. Due to climactic conditions and the shortness of the construction season and 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. 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 decided to address this matter as a specific review topic during the 2010 annual oversight process. See Section VII for more detailed information on this topic.

B. Reclamation Success

As reported in the 2009 annual evaluation report, Alaska released Phase I and Phase II bond on approximately 70 acres at the Gold Run Pass Mine during the 2006 evaluation cycle. 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 graded 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 35 acres, split between the Poker Flats Mine, Two Bull Ridge Mine and Gold Run Pass 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 embattled Wishbone Hill exploration permit renewal has triggered three appeals. The State has written all three appellants asking for additional information and seeking clarification as to their intentions concerning public hearings. For more information on this issue, see Section VII.

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 the process, there have been numerous 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. For additional information on the Chuitna Project, see Section VII.

D. Approximate Original Contour

To evaluate Alaska's implementation of its approximate original contour provisions, staff from OSM's Western Region evaluated backfilling and graded activities at UCM's Two Bull Ridge Mine. The evaluation included active and reclaimed areas that were determined to be representative of typical mining conditions within the Healy Valley. The evaluation was based on the State's regulations and focused on 1) DMLW's interpretation of its regulations, 2) permit related documentation, 3) DMLW processes for on-the-ground verification of backfilling and grading, and 4) OSM field verification of the State's activities. Based on its review and field verifications, OSM did not identify any systemic problems regarding DMLW's implementation of its approximate original contour provisions. See Appendix A for OSM's review team's unedited report regarding this topic.

E. Bonding Adequacy

To assess DMLW's implementation of its bonding program, OSM's Western Region bonding engineer selected UCM's Two Bull Ridge Mine for evaluation. OSM's reviewer found everything up to date with no outstanding 30 CFR Part 732 required program amendments relative to bonding provisions. She then evaluated the bonding information provided by the permittee and the State's analyses of that information.

OSM's review identified several concerns that have been discussed with DMLW staff. The most critical of these is the lack of detailed information provided in both the operation and reclamation plan and UCM's reclamation cost estimate document provided as part of the permit application. Specifically, OSM did not find adequate information to verify volumes to be moved or distances to be travelled needed to support the overall reclamation cost estimate or calculated bond amount.

DMLW staff agreed with OSM's findings and agreed that additional information must be provided in order to justify the reclamation cost estimate. As the Two Bull Ridge Mine permit is due to be renewed in late 2010, the DMLW management committed to thoroughly review its bonding procedures so as to ensure that the permittee submits all information needed to accurately calculate the bond amount. DMLW indicated that it has ArcGIS files for both pre-mining and existing surfaces so it will be able to determine accurate volumetrics in order to attain the approved post-mining topography. See Appendix B for OSM's reviewer's unedited report regarding this topic.

F. Oversight inspections

In order to aid OSM's evaluation of State Regulatory programs and enhance Federal oversight improvement efforts, OSM announced in November of 2009 that it would immediately increase the number of oversight inspections in EY 2010. OSM also announced it would begin conducting independent unannounced oversight inspections at selected mine sites in order to provide observations and insight into the effectiveness of State regulatory programs by evaluating the current compliance status of mines in each state.

The OSM Reclamation Specialist conducted four complete inspections of coal mining operations in Alaska during EY 2010. In addition, a Senior OSM staff member conducted site visits to three mine sites during the evaluation cycle. During the 2009 evaluation cycle, neither the DMLW staff nor OSM staff issued any enforcement actions or Ten-Day Notices. During the 2010 evaluation cycle, OSM issued three TDNs containing seven potential violations. The DMLW issued two NOV's as a result of the TDNs and provided adequate explanation to OSM as to why the remaining issues did not rise to the level of violations.

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) visited DMLW in September of 2009 and assisted the State by providing on-site consultation to staff and providing numerous software upgrades for both the Title IV and Title V program. For a complete list of software upgrades provided to the State, visit the TIPS website at www.tips.osmre.gov.

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, the TIPS training facility was in use 151 days.

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. Three staff members from the DMLW participated in six training opportunities during this evaluation cycle while one DMLW employee has taught some TIPS classes.

During the 2009 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. The groundwater modeling team temporarily suspended its activities while the applicant and its contractors are conducting additional groundwater sampling. Upon completion of the drilling activities, it is anticipated that the groundwater team will resume its activities.

TIPS provided a FLIR thermal camera to Alaska for use in identifying the limits of an underground coal fire at the Jonesville AML project site.

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.

In addition to the topics selected for National focus, Approximate Original Contour, and Bonding, the oversight team selected 4 specific program elements for review, 1) Chuitna Coal Project, 2) program maintenance, 3) Wishbone Hill Project, and 4) DMLW's response to OSM's Ten Day Notices issued during the joint oversight inspections. The first two topics are follow-up topics with the last two being new for the 2010 oversight cycle.

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) would 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 would 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 excess of 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 the 2009 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 evaluation 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 the 2009 evaluation cycle, all of the baseline data reports had 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 filed their respective briefs with the court after the end of the 2009 evaluation cycle. OSM continued to monitor this issue during the current evaluation period.

Based on its conversations with the Trustees for Alaska, the DMLW anticipated 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 left the organization; but, new to the organization, took over matters involving the Chuitna Coal Project.

On January 21, 2010, DMLW ruled that the Lands Unsuitable Petition, resubmitted by the Trustees for Alaska was complete. The DMLW staff are in the final stages of field checking the application data against the allegations contained in the petition. The two main allegations concern the potential irreparable harm to the areas hydrologic balance and productive fish and wildlife habitat as well as loss of natural, cultural and aesthetic values of the watershed. The second allegation states that because post-mining reclamation would be incapable of restoring the important pre-mining uses of the land and couldn't satisfy the mandated performance standards, reclamation, in accordance with the statute and regulations, is not technologically feasible.

The DMLW staff is hoping to complete its field verification work by early November. The Alaska regulations allow 12 months to process a lands unsuitable petition when field work is required. The DMLW plans to conduct a hearing after the field investigation findings are compiled. By statute, DMLW must render a decision regarding the petition within 60 days after conducting a hearing. The DMLW staff has posted the lands unsuitable petition on its website and this has triggered a lot of public interest and questions regarding the Chuitna Project. DMLW has received over 170 comments regarding the Chuitna Project with negative comments leading the supportive comments by a 3 to 1 margin.

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 2008 evaluation cycle.

During the 2009 evaluation cycle, PacRim updated 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 2010. Upon receipt of the additional information, the DMLW will initiate its completeness review.

During the 2009 evaluation year, there were 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 was 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. As reported earlier, the groundwater modeling team temporarily disbanded while PacRim was drilling 3 additional groundwater sampling wells. It is anticipated that the three additional wells will be completed by October 2010.

As mentioned earlier, the State of Alaska is slated to assume NPDES authority from the US EPA on November 1, 2010. As a result of this transfer of authority, the EPA will no longer be the lead agency on the Chuitna Project. The US Army Corps of Engineers now becomes the lead Federal agency and assumes the lead in preparing the Supplemental Environmental Impact Statement for the project. Even though the COE was a signator to the 2006 MOU, their role to date has been minimal relative to the SEIS. There appears to be some confusion and staffing issues regarding the transfer of responsibilities associated with coordinating the preparation of the SEIS. The DMLW is attempting to assist in training the COE staff on coal mining and reclamation processes along with the coal mining statute and regulations.

DMLW is awaiting the submission of the revised Ladd Landing portion of the permit application. PacRim has attempted to address the major issues registered by the Native community of Tyonek as well as issues raised by the Alaska Department of Fish and Game and the commercial fishing community regarding the placement of a bulkhead needed as part of the re-fueling facility and heavy equipment off-loading facility.

PacRim has ceased establishing timelines regarding its permitting activities due to all of the unexpected delays; however, their goal for submission of all three permit application components is by the second quarter of 2011.

DMLW has been working with the Alaska Department of Health to develop procedures for implementing a Health Impact Assessment (HIA) that is becoming a more important component of the EIS process. The intent of the HIA is to assess the potential health impacts of a proposed project on the affected human population. The State is planning to either conduct personal interviews with those potentially impacted individuals or to provide local residents with personal surveys to complete and return. DMLW staff have been working with Dr. Paul Anderson, an epidemiologist conducting research regarding health impact assessments.

❖ 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 was to have this regulation package finally adopted during the 2009 evaluation cycle; that did not happen.

Alaska submitted to OSM on January 5, 2010, an informally proposed program amendment package with additional modifications to that package being submitted on April 9, 2010. OSM completed its review of the amendment package and provided comments to DMLW on April 20, 2010.

The DMLW staff, in conjunction with the Department's legislative compliance staff, are revising the regulation package in response to OSM's comments and plans to submit the final version to OSM late this fall. It is hoped that DMLW adequately addresses all identified concerns and submits a timely package as this particular 30 CFR Part 732 response has taken way too long to bring to closure.

The DMLW is also revising its schedule to address the remaining issues regarding its regulations. The revised schedule should not impact or delay the State's plans for Regulatory Reform 2, re-codification of the coal regulations or Ownership and Control/Valid Existing Rights regulations.

❖ Wishbone Hill Project

Coal was first discovered in the Wishbone Hill District in the late 1800's with small underground projects occurring in the early 1900's along Moose Creek, which flows through the current permit area. Exploration at the current Wishbone Hill Mine began in 1983.

The State issued two coal mining permits to Idemitsu Alaska on August 2, 1991, after reviewing the initial permit application which was submitted on September 11, 1989. On August 15, 1995, DMLW transferred the Wishbone Hill permits to North Pacific Mining Corporation. DMLW then issued to North Pacific, permit renewals on September 16, 1996.

Both mining permits, along with the exploration permit were transferred to the Usiblli Coal Company on December 1, 1997. As previously indicated, these permits are located approximately one hour northeast of Anchorage near the town of Sutton. UCM had planned since 1997 to develop this area when the economics and coal market were right. Also during this same period, the area around Sutton experienced tremendous growth with many individuals locating in the vicinity of the potential Wishbone Hill project site.

The area remained idle until mid-2009, when UCM became more active in attempting to find a market for its coal. UCM, during the evaluation cycle, modified its exploration permit by proposing to establish an access road into the exploration area, increasing the number of drill holes to a total of twenty and proposing to reopen and expand a previously backfilled exploration trench. After reviewing the exploration permit application and considering the level of public interest, DMLW extended the public comment period for an additional 26 days. Although outside of this evaluation cycle, DMLW renewed UCM's coal exploration permit in July of 2010.

The State's action triggered three appeals; one from an individual, one from a law firm representing a community group called Castle Mountain Coalition Inc. and one filed by a second law firm representing the Nay'dini'aa Na Traditional Village (Chickaloon Village Traditional Council (CVTC)) a sovereign, Federally recognized Athabascan Indian Tribe. Each entity appealed the DMLW decision in a different manner, citing incorrect appeal regulations. Also, none of three appellants requested a hearing. After working with the DNR appeal coordinator, DMLW decided to write to each appellant seeking clarification relative to their respective concerns and asking if any of the three desired a hearing. The target date for sending the letter was mid-August. OSM and DMLW agreed to continue evaluating the Wishbone Hill Project during the 2011 evaluation cycle.

❖ Ten Day Notice Response

As previously mentioned, in Section V. A., Off-site Impacts, OSM's Reclamation Specialist, after conducting joint oversight inspections during the 2009 evaluation cycle wrote three Ten-Day Notices containing seven potential violations. All three TDNs were issued to DML and involved Usibelli Coal Company mines.

TDN X09-141-244-001-TV5 identified five potential violations at the Two Bull Ridge Mine concerning blasting procedures, topsoil handling procedures and sediment control structures and their maintenance. TDN X09-141-244 -002-TV1 identified concerns associated with the construction and maintenance of sediment control measures at the Gold Run Pass Mine. Lastly, TDN X09-141-244-003-TV1 cited a potential violation at the Poker Flats Mine regarding failure to maintain a siltation structure.

The inspections took place on August 24, 25, and 26, 2009. The State issued a Notice of Violation for a violation observed at the Two Bull Ridge Mine on August 28, 2009 for failure to construct and maintain a sediment control structure. OSM issued the TDNs on August 31, 2009. In accordance with program requirements, DMLW submitted an initial response to OSM addressing TDNs 002 and 003 on September 8, 2009 with a response to TDN 001 forwarded on September 11, 2009. Also management from DMLW met with the Chief of the Denver Field Division to explain the State's position and defend their actions regarding the TDNs.

On November 13 and 16, 2009, DMLW submitted final responses to all three TDNs discussing the State's final disposition of each perceived violation. OSM, after evaluating the State's explanations and their commitment going forward, accepted DMLW's response. On December 16, 2009, DMLW issued a second NOV to Usibelli for one of the observed infractions at the Two Bull Ridge Mine. OSM is satisfied with the State's final response and subsequent enforcement actions and considers this issue resolved.

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

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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

Introduction

The Office of Surface Mining (OSM) selected implementation by States of approximate original contour (AOC) and backfilling and grading provisions as a national priority oversight topic. The OSM Western Regional Office (WR) evaluated the State programs in Alaska, Colorado, Montana, New Mexico, North Dakota, Utah and Wyoming. WR evaluated 20 percent of the mines up to a maximum of five mines in each State. The evaluation included active and reclaimed mines that were determined to be representative of typical conditions in the State. The evaluations were based on the State's regulations. The evaluations focused on: 1) State AOC interpretation and permitting documentation; 2) State processes for on-the-ground verification of backfilling and grading; and 3) OSM field verification that backfilling and grading are following the approved mine/operations plan.

Evaluation Methodology Used by the Western Regional Office Team

The National Priorities Review AOC group provided the WR evaluation team with baseline questions to standardize the evaluations nationwide. The answers to the baseline questions provide information on how the State interprets its AOC provisions. Also, the baseline questions provide a framework to enable field verification of backfilling and grading activities at the specific mine site. These baseline questions are provided in Appendix 1.

Approximate Original Contour Evaluation

During each State AOC oversight evaluation, the WR Team met with the State permit coordinator to discuss policies relating to implementation of AOC. The team attempted to understand the systematic measures the State employs to incorporate AOC in the permit and to approve and verify backfilling and grading in the field. The team also asked whether there has been public comments or complaints related to AOC and the outcome of any public involvement.

The Team reviewed provisions pertinent to AOC within each permit. The review focused on backfill and grading practices, stream channel reconstruction, hydrology, special conditions such as retention of bluff features, valley fills, and areas with specific reconstruction requirements such as prime farmlands or alluvial valley floors (AVF). The Team examined data that compared pre and post-mining conditions, including terrain figures, slope and aspect comparisons, and watershed densities. The Team also considered AOC determinations in context of the post-mining land uses. Finally, the Team reviewed documentation and justification for variances from AOC, including approvals for excess spoil. The answers to AOC baseline questions for each State and its respective mines are presented in Appendix 2.

Field Evaluation

A WR Team member met with the State permit coordinator to identify areas on the mine site that have been reclaimed to AOC. They also identified representative areas, including drainages, slopes with multiple aspects, and planar surfaces, to be included in the field evaluation. The OSM representative then verified elevations by walking transects. Reconstructed channels and the overall topography were observed. Relevant locations and elevations were recorded using GPS equipment (Trimble GeoXH). Each set of questions and answers for AOC field verification completed by the Team for each state and its respective mines are presented in Appendix 3. OSM has included figures in Appendix 4 showing field transects of areas reclaimed to AOC that were performed by the Team at the Freedom Mine 9501 near Beulah, North Dakota as part of this oversight inspection. The intent of providing these figures is to show a comparison of pre and post-mine surfaces measured by OSM to those measured by the operator. The figures included in Appendix 4 have only been added as a representative sample of the work performed as a part of field verification activities and are not intended to imply anything specific about the State of North Dakota program or the Freedom Mine 9501.

State Findings Summary

Alaska

The OSM WR Team reviewed the State of Alaska Department of Natural Resources (Division of Mining, Land and Water) program for implementation of AOC and performed field verification of AOC at the Two Bull Ridge Mine.

AOC Findings

Currently there are no agreements between OSM and the State of Alaska regarding the definition or implementation of reclamation to AOC. The State has not received any comments or citizen complaints relating to AOC or post-mining land use directed to the state program or OSM. Nor are there any outstanding required amendments or 30 CFR 732 letters related to AOC or post-mining land uses associated with AOC waivers.

The State conducts frequent on-site inspections at the mines it regulates. The permit reflected the State regulations, rules and interpretation of AOC and the operator has clear language in the permit expressing a commitment to reclaiming the disturbance area to AOC. The Operator has presented plan views detailing post-mining topography and some projected post-mining stream channel cross sections. The Mine provided a comprehensive written discussion of the hydrology of the premining environment and hydrology of the area. The State has indicated that they will be expecting the Mine to provide more detailed analysis of reclamation plans prior to approving any further reclamation actions. Backfill and grading sections within permit reclamation plans demonstrated soil swell factors resulting from various types of mining operations, which were used to determine if the mine had thin or thick overburden conditions that could lead to the need for out-of-pit spoils disposal or a variance from AOC. There are no allowed variances to AOC at the mine.

The OSM Team determined that the State has a process for adequately evaluating AOC which includes a program of on-site inspection as well as use of periodic aerial imaging of mines that they regulate. The State confirms backfill and grading according to post-mining terrain prior to a Phase 1 bond release.

After conducting a detailed review, OSM found that the State of Alaska's process for evaluation of mining permits is adequate to ensure that backfilled and graded areas will be reclaimed to AOC and that further follow-up action is not needed.



Field Verification Findings

The OSM Team conducted a field verification of lands reclaimed to AOC at the Two Bull Ridge Mine in Healy, Alaska. The field conditions included clear skies and open terrain without snow cover. The Team

completed three short transects in a small area reclaimed to AOC. Because of the small size of the area, it was difficult to determine if Two Bull Ridge was conducting backfilling and grading in accordance with the approved AOC. It appeared that the Operator had the capability to reclaim to AOC and that the State was committed to ensuring that the Operator would reclaim to AOC in the future. OSM inspectors felt that inspection of a mine that had conducted more reclamation using AOC guidelines would have been more suitable for the AOC national oversight program. Based upon discussions with the State and visual observations the Team made of a sister mine (Poker Flats Mine) adjacent to the Two Bull Ridge Mine, the State does not appear to have a systematic problems with its field verification and inspection process for AOC.

State Specific Permit Review - Alaska

Background Information

1. Is there an agreement between the regulatory authority and OSM as to the interpretation of AOC as envisioned by Directive REG-8, Appendix 1?

There are no agreements between Alaska and OSM at this time.

2. Are there any outstanding program amendments or 30 CFR 732 letters related to AOC or post mining land uses associated with AOC waivers?

No.

3. Has OSM or the State received any citizen complaints related to AOC in the past 3 years and what was the ultimate outcome of the case(s)?

No.

State Verification of Backfilling and Grading:

1. Does the State have methods to check the operator's compliance with their backfilling and grading plan?

The State conducts frequent inspections on site of the approved PMT. The State receives annual reports from its operators.

2. Is the State routinely using these methods or verifying operator supplied information at some point prior to Phase I bond release?

Yes.

3. If grading problems are identified does the State require additional grading or permit revision?

Yes.

4. Has OSM done any spot checking of sites to verify compliance with the approved permit regarding backfilling and grading?

OSM has worked with the State in the past to inspect mines but it is not a routinely scheduled action.

5. Based on the entirety of this process is there a need for further checking of on the ground conditions?

No.

Permit Review

Usibelli Coal Company Two Bull Ridge Mine S-0603

1. Does the State have a process for applying its interpretation of AOC to evaluation of backfilling and grading plans, and is the process documented and reproducible from site to site?

The State conducts frequent on-site inspections to verify that the Operator is complying with their backfill and grading plan and also acquires aerial imagery of the Mine to help evaluate reclamation progress. The State is investing in remote surveying equipment and contracting for digital terrain mapping which is expected to further improve the State's resources for evaluating AOC.

2. Does the State's interpretation of AOC appear to meet the State program definition of AOC?

The approved permit appears to meet the State's rules and criteria for reclamation of mined lands to meet AOC.

3. Do the permit documents reflect the State interpretation of AOC? {Note: If the State grants variances to AOC, the review should include a sample of those permits with an AOC variance to determine if a reviewer could generally make a distinction between a permit returning to AOC and one granted an AOC variance. Also the reviewers should pay close attention to drainage patterns including the size of the watersheds before mining and that proposed by the regrading plans to determine if drainage patterns or watershed areas have been altered.}

The post-mine land use at the Two Bull Ridge Mine is limited to wildlife habitat and recreation, which is consistent with the State of Alaska's State Lands Area Plan. There are neither Important Farmlands nor Alluvial Valley Fill conditions. There are some areas of Permafrost within the permit boundary; however, the Operator is not planning to conduct operations in these areas. The Two Bull Ridge Mine is not conducting Mountain Top Removal operations or operations on Steep Slopes. There are no variances from AOC at the Two Bull Ridge Mine.

The Operator has included language in the permit indicating that they will incorporate a variety of slopes, aspects, contours, and drainages to create landscape diversity. They have indicated in their backfill and grading plan that they would be including "irregularities" to form "undulations" and "minimize unbroken slopes". The permit explains that reclamation will eliminate significant depressions and highwalls and blend placed soils with undisturbed terrain. Plate D10-1 Final Reclamation Contours and Post-mine Drainage Plan shows the Operator's design for post-mining AOC at the Two Bull Ridge Mine.

The Operator indicates using swell factors of 20-35% for blast-cast fill placement, 15-30% for dragline fill placement, and 15-20% for truck-and-shovel fill placement on page D10-5. However, the Operator presents swell factors of 1.25-1.35 for blast-cast backfill, 1.15-1.2 for dragline backfill, and 1.2-1.25 for truck-shovel backfill in Volume 3, Section 5.3. The discrepancy is not expected to impact the ability of the Operator to return the mine to AOC; however, the figures should be consistent within the approved permit.

The hydrology of the Two Bull Ridge Mine is dominated by three drainages including Two Bull Creek, Badlands Creek, and Frances Creek. These three

creeks then flow into the larger Hoseanna Creek. Two Bull Creek, Badlands Creek, and Frances Creek flows are ephemeral streams in their upper reaches and perennial in their lower reaches (due to discharge of springs near coal seam outcrops). These creeks typically experience high-intensity flows during precipitation events and from spring snow melt. Pre-mine watershed areas are generally preserved following reclamation. Table D12-3, Effects of Mining on Drainage Basin Areas in the approved permit details pre and post-mine drainage areas; the approved permit also contains Figure CV-1 Drainage Areas and Table CV-1 Project Area Drainage to present hydrologic features at the mine. The Operator has not submitted specific designs for stream channel reconstruction at this time, stating in the approved permit that designs will be submitted in a later permit renewal. The State is currently working with the Operator to develop stream channel designs using Best Technology Currently Available (BTCA) appropriate for the erosion characteristics found in Alaska.

4. Are there sufficient cross-sections or contour maps in the permit to properly evaluate AOC?

The mine has presented some cross sections and plan view drawings showing comparison of pre and post-mine topographies and stream alignments. There are no profiles showing post-mining channel hydrology or a comparison of pre-mine to post-mine channel geometry. Currently the mine has not submitted any designs of post-mine channels, indicating that these designs will be presented as a part of future permit revisions. The State has indicated that they will receive engineered channel designs and SEDCAD data sheets prior to approval of any future reclamation plan at the Mine.

5. If an AOC variance has been granted are the reasons documented and in accordance with regulatory requirements for that State and OSM's June 22, 2000 Post Mining Land Use Policy?

There are no variances from AOC at the Two Bull Ridge Mine. The Two Bull Ridge Mine has two out-of-pit spoils areas (West Out-Of-Pit Spoil and North Spoil dumps) that are interpreted to be excess spoils and thus are exempt from AOC requirements. Badlands Creek has been diverted around the West Out-Of-Pit Spoil dump. The mine does not indicate that they have a thick overburden condition; however, have indicated that they are using the out-of-pit spoils areas due to a lack of sufficient space for stockpiling of overburden materials.

6. Do you believe the State's process for evaluating permits is adequate to ensure that backfilled and graded areas will achieve AOC?

Yes, Alaska evaluates AOC effectively uses its rules and processes to evaluate and ensure AOC is achieved. The State is currently exploring BTCA with the Operator that are aimed at promoting stable stream channel designs in the context of the erosive characteristics of the environment at the Two Bull Ridge Mine.

State-Specific Field Verification Reports - Alaska

Usibelli Two Bull Ridge Mine 3/31/10

1. Collect data using GPS, field surveys, or other appropriate methods on areas of the selected permits where backfilling and grading are complete.

The State collects data of reclaimed areas with field surveys and slope profiles. The State currently uses resource grade data collectors to collect this information but is looking into acquiring a scanning total station to verify AOC. In addition Two Bull Ridge Mine submits yearly digital terrain maps of the mine site to the State.

2. Based on the field data collected, was the site reclaimed to AOC in conformity with the approved mining and reclamation plan?

At this time it is too early to tell where Two Bull Ridge Mine is in meeting AOC.

3. If there are differences between the approved AOC configuration for the site and the actual land form following backfilling and grading, are these differences significant?

There are differences between premining topography and the approved AOC configuration but I don't think this difference is significant in the concept of "approximate". The major premining drainages will be there but the lengths and configurations will be different.

4. Do differences, if any, between land forms following backfilling and grading and the approved AOC configuration observed on the sampled sites indicate a systematic problem in the State's methods for checking operator compliance with the approved backfilling and grading plan?

The Two Bull Ridge Site does not have significant reclaimed area at this time to validate the State's methods for ensuring Operator compliance with the approved backfill and grading plan. The State appears to be committed to BTCA in their approach to evaluating backfill, grading and AOC in general.

APPENDIX 3

Summary of State Oversight Evaluation Findings

Alaska

The only operating coal mining company in Alaska is the Usibelli Coal Mine. This review concentrated on the Two Bull Ridge Mine, a separate permit within the Usibelli mine complex.

Bond Adequacy Findings

The state of Alaska uses the OSM Bonding Handbook methodology to calculate bond amounts. The mining staff is all relatively new and is still learning about the complexities of the bond calculation process. The state uses the R.S. Means Heavy Construction Cost Guide (adjusting for the state and region), the PRIMEDIA's Cost Reference Guide (CRG) - Rental Rate Blue book (adjusting for the region within Alaska), and the State's Labor Rates (Title 36). Bond amounts are reviewed at the time of renewal and mid-term of each permit, as well as anytime there is a revision to a permit.

The equipment, labor and demolition costs used were reviewed, but OSM was not provided information to verify volumes, distances or hours which supported the overall cost estimate. For the purpose of this review, the volumetrics provided by the mine permittee in their reclamation cost could not be verified. There are no outstanding required program amendments or 30 CFR Part 732 notifications related to bonding. Neither the Denver Field Office nor the state has received any citizen complaints related to bond adequacy in the past 3 years.

Alaska has not changed its bond calculation methodology since the last comprehensive OSM review and is still using OSM's recommended worst-case scenario as the basis for their calculations. Department of Natural Resources – Division of Mining, Land and Water (DMLW) staff prepares independent, internal reviews to verify the reclamation cost estimates provided by their permittee with multiple permits. The DNR uses the OSM Bonding Handbook recommendations for the determination of all Indirect costs, including mobilization/demobilization, engineering redesign, contingency, profit and overhead, and reclamation management fee costs. In addition, DMLW also adds a 10% administrative fee.

No financial assurance is provided for postmining pollutional discharges as none exist nor are expected.

The current bond amount was based on the state's bond cost estimate calculated using the OSM Bonding Handbook methodology. However, because no supporting documentation was provided, it was not possible to verify any of the Direct costs. Alaska has not had a bond forfeiture, thus there is no forfeiture of bond to review. Although the process is similar to OSM's, it could not be determined whether Alaska is in compliance with their bond adequacy regulations because the bond amount for this permit could not be verified.

Review of State Documents

The state of Alaska uses the OSM Bonding Handbook methodology to determine bond amounts. The summary page of the Usibelli Coal Mine's (UCM) reclamation cost estimate reflects that methodology when it calculated the original (2005) and revised

(2007) reclamation cost estimates for the Two Bull Ridge permit (TBR). The state uses the R.S. Means Heavy Construction Cost Guide (adjusting for the state and region), the Cost Reference Guide (CRG) - Rental (adjusting for the region within AK), and the state's Labor Rates (Title 36). The Department of Natural Resources-Division of Mining, Land, and Water (DMLW), reviews adequacy of bond calculation at the time of renewal and mid-term of each permit, as well as anytime there is a revision to a permit. The 2007 review was for a permit revision which did affect the amount of posted bond.

The table from the state's Annual Report for TBR indicates from July 2008 to June 2009, 38 new acres were disturbed and 8.2 were reclaimed within the TBR permit. For the years 2007 through 2009, a total of 416.7 acres was disturbed, and a total of 37.1 acres was backfilled and graded. The entire permit is for a total of 2,749 acres.

The equipment, labor and demolition costs used in the permittee's 2005 and 2007 reclamation cost estimates were reviewed but neither the permittee's nor DMLW documents provided information to verify volumes, distances or hours in support of the overall reclamation cost estimate or bond amount. For the purpose of this review, the volumetrics provided by the mine permittee in their reclamation cost estimate could not be verified. The operation and reclamation plan for this permit were reviewed, though much information was missing, including whether roads were to become permanent (and if so, to what final design and at what cost) and whether wells or piezometers are permanent installations. In addition, no mining or reclamation schedules were provided or referenced in the TBR permit. The reviewed permittee's reclamation cost estimate was to reflect the worst-case scenario of operation in year 5, which is 2010.

Usibelli Coal Mine, Inc., Two Bull Ridge Mine (TBR), Permit Number S-0603, Bond Term 2005-2010, Permit Term 2005-2010

A detailed review of the permittee's reclamation cost estimate was completed by Alaska staff at the time of the 2007 revision, but a copy of their bond calculation documentation was not available to OSM staff.

Most recently, in 2007, UCM posted a \$4.905 million bond, of which \$3.5 million is Direct costs (earthmoving & revegetation), \$1.007 million is Indirect costs (mobilization/demobilization, contingencies, engineering redesign, profit & overhead, reclamation management fee), and \$376,859 is Sub-contractor costs (seed & fertilizer, demolition, administrative fee). Neither inflation, nor long-term monitoring costs were included in this reclamation cost estimate. The revised 2007 reclamation cost estimate of \$4.5 million indicates using a dozer to move 5 million bank (not loose) cubic yards of fill material. However Karen Jass' visit to the field indicates that the amount of material that must be moved will be greater than that stated by the mine permittee, that there is only a very small area that has been graded and temporarily vegetated, and that no area has been fully reclaimed. Push distances for backfill or topsoil material will be long and will result in greater costs than those stated in the permittee's reclamation cost estimate.

OSM could not verify the adequacy of the amount of the bond held by Alaska because insufficiently detailed information was provided in both the permittee's reclamation cost estimate document and operation and reclamation plans, and because the state's bond calculation was not available. The TBR permit is due for renewal this year, and as part of that review by the state, it is suggested that OSM be involved in a detailed review of the Two Bull Ridge reclamation cost estimate, including the verification of the volumes of

material to be moved. This will assure that the state of Alaska is provided the protection of an adequate bond being posted for the purpose of mine reclamation. DMLW did agree that additional information must be provided in both the operation and reclamation plans, and in support of the permittee's reclamation cost estimate. As the TBR permit is due to be renewed later this year, DMLW has indicated it will thoroughly review the information submitted to assure that it comprehensively addresses the reclamation work to be done, including all associated costs. DMLW indicated it has ArcGIS files for the pre- and current-mining surfaces and will be able to determine the volume of material which must to be moved to attain the approved post mine regraded surface.

Based on the location of the dragline at the time of the field visit (March 31 & April 1, 2010), this pit is nearly mined out and essentially at its maximum disturbance. All existing disturbance should be evaluated for bond adequacy during the upcoming permit renewal review.

There are no issues with acid materials. The greatest issue with this operation is slope stability because the material is loose sand and stone, which erodes very easily during the short bursts of summer rain. Pond and sump cleanout is constant, something that must be included as a yearly cost in the reclamation plan until final, fully revegetated reclamation surfaces are established. The state of Alaska, as the landowner, requests that the mining company leave all roads as access to hunting and other areas after the completion of mining, and this must be stated in the reclamation plan.

TBR is a dragline and truck/shovel mining operation which has a maximum annual production of 2 million tons, with a life of permit estimate of 42 million tons. Topsoil is stockpiled but no map of those stockpiles was provided. The permit does state that at least 12" of topsoil will be replaced on all disturbed areas.

To assure the adequacy of the bond amount and the bonding instruments, OSM should review the outcome of the state's permit renewal evaluations for all Usibelli Coal Mine permits.

Oversight Work Plan Questions

Background information:

1. Is there a clear understanding by the regulatory authority and OSM as to the methodology that the state is using to calculate required bond amounts?

Yes, Alaska uses the OSM Bonding Handbook as its guidance. However the mining staff is all relatively new and is still learning about the complexities of the bonding process and the necessity of detailed information in the approved permit.

2. Are there any outstanding required program amendments or 30 CFR Part 732 notifications related to bonding?

No, there are no outstanding required program amendments or 30 CFR Part 732 notifications related to bonding.

3. Has the Field Office or State received any citizen complaints related to bond adequacy in the past 3 years? If so, what was the ultimate outcome of those complaints?

No complaints were received related to bond adequacy.

4. Has the State revised its bond calculation methodology since the last comprehensive OSM review?

No, Alaska has not changed its bond cost calculation methodology since the last comprehensive OSM review, and still uses OSM's recommended worst-case scenario as the basis for their calculations and determination of the bond amount. However, DMLW has used outside contractors who did cost estimates in the past.

Bond calculation:

1. Has the bond calculation considered all features and structures in the approved plan, including whether roads and impoundments will be permanent?

Yes, DMLW staff indicated they normally prepare an independent bond cost calculation to determine the bond amount for each permit. This would consider the costs to attain the requirements of the reclamation plan, and identify things like post-mine structures (including the cost to downsize) or the type of fencing to be installed.

2. Does the calculation include the costs of mobilization, demobilization, engineering redesign, and contractor profit and overhead?

Yes, the Alaska permittee essentially followed the OSM Bonding Handbook recommendations for the determination of all Indirect Costs including mobilization/demobilization, engineering redesign, contingency costs, contractor profit and overhead, and the reclamation management fee. In addition, they also add a 10% administrative fee. Because in this case, all the Indirect costs are a percentage of the total Direct costs, the accuracy of the Direct costs is crucial to assure overall bond adequacy.

3. Are the revegetation costs in the bond calculation consistent with the approved revegetation plan?

It seems that for the 400 acres of disturbance within the TBR permit, the cost per acre (\$757) should be adequate for revegetation of the types of seed and trees required. The cost per acre includes \$30,102 for seedbed preparation and \$285,450 for aerial seeding and fertilization. However, as was noted with dozer costs, no supporting information was provided other than the list of plants required by the reclamation plan. It isn't clear whether a failure cost is included in this overall cost of revegetation. The costs considered as revegetation should be evaluated in the state's review of the permit later this year to assure the inflated costs in Alaska are considered.

4. What type of financial assurance is provided for any postmining pollutional discharges, and how is the amount of that assurance calculated?

No financial assurance is provided for postmining pollution discharges as none exist nor are expected.

5. How does the bond amount compare with that calculated using the OSM Bonding Handbook?

The current bond amount includes reclamation costs calculated using the OSM Bonding Handbook methodology. However, because no supporting documentation was provided, primarily the volumes and distances of material to be moved which have the largest impact on the Direct costs, OSM could not calculate a bond amount. . In addition, the permit had very little information detailing what type of reclamation is to be performed, what post mining structures are approved to be left, or even what has been accomplished to date. The permit did not contain any text which provided details about the schedule of mining and when reclamation would follow completion of mining, nor did it contain any maps or schematics which showed the location or extent of mining, or the reclamation schedule within the permit term. Only the 2008 and 2009 Annual Report tables, with the number of disturbed and regraded-to-date acres, were provided to OSM by the state during the office visit, and then by the permittee during the mine visit. It was not possible to determine a reclamation cost. However, the amount of disturbance observed in the field would seem that the worst-case reclamation cost has been underestimated by the mine permittee, which is the basis for the state's determining the amount of bond to be posted.

6. Is the reclamation of bond forfeiture sites being done in conformance with the approved reclamation plan for the site? Are differences due to the inadequacy of the bond or available resources from the alternative bonding system?

Alaska has not had a bond forfeiture, thus there is no forfeiture of bond to review.

APPENDIX 4

STATE OF ALASKA/ SEAN PARNELL, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF MINING, LAND AND WATER

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September 17, 2010

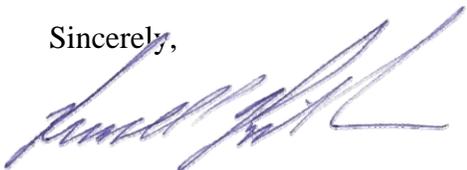
Glenn Waugh
Office of Surface Mining
Evergreen Plaza Building, Suite 703
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Olympia, Washington 98501

RE: ANNUAL EVALUATION REPORT

Glenn,

I have had a chance to review the 2010 Annual Evaluation Summary Report that covers the period starting July 1, 2009 and ending June 30, 2010. After submitting minor editorial changes to the report, I concur with its contents. The State of Alaska appreciates the opportunity to work with the Office of Surface Mining in the preparation of this report. If you have any questions you may contact me at the number above.

Sincerely,



Russell Kirkham
Manager
Coal Regulatory Program