

OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

**Annual Evaluation Report
for the**

Regulatory Program

**Administered by the Department of Environmental Quality
Industrial and Energy Minerals Bureau**

of

MONTANA

for

**Evaluation Year 2011
July 1, 2010 to June 30, 2011**

Prepared by

**Casper Field Office
September 2011**

Executive Summary

The following is a summary of the EY 2011 Oversight Report of the Montana Department of Environmental Quality-Industrial and Energy Minerals Bureau (MT-DEQ-IEMB). This report covers the period of July 1, 2010 to June 30, 2011. Overall, Montana has a very effective program with no major issues that need corrective action.

Overview of Public Participation and Outreach Efforts

Each evaluation year the OSM-CFO solicits input from the public and interested parties to comment on oversight and provide suggestions for potential oversight evaluation topics. During the evaluation year, the MT-DEQ hosted a stakeholder meeting as part of its informal outreach effort to discuss proposed changes to the Administrative Rules of Montana relating to the MT-DEQ's Coal and Uranium Program. Numerous other opportunities for public involvement in mine permitting exist under the Montana coal program.

Major Accomplishments and Innovations

MT-DEQ's Data Management Committee continues to develop protocols for submittal of electronic data, including permit application/revision submittals and annual mining reports from coal mine operators. MT-DEQ is in the second year of implementation of the Colorado Division of Reclamation Mining and Safety's (DRMS) Permit System Application user interface as a database solution. The Application integrates the Access database, an electronic document management system (FileNet), and a GIS system. Montana returned the favor, in small part, by developing a new Annual Reports tab and delivering that component to Colorado for free.

In a technology transfer sharing agreement between Colorado and Montana, the additional data attributes developed for the MT-DEQ including environmental resources definitions, mining and reclamation requirements, and mining and reclamation plan annual reporting will be used to enhance the Colorado DRMS Permit System Application. Colorado DRMS recently launched a bond calculation software application. MT-DEQ is currently integrating the application into the Coal Application system.

Off-Site Impacts

One hundred percent of the 13 inspectable units in Montana were free of off-site impacts during the evaluation year.

Reclamation Success

Measurements for determining reclamation success include the areas of Land form/AOC achievement, Land Capability, Hydrologic Reclamation, and Contemporaneous Reclamation. These parameters are measured by the amount and timeliness of bond release achieved by all operations in the State. The following are cumulative totals for bond release acres:

16,657 acres or 42% of disturbed acres received Phase I bond release.
12,434 acres or 31% of disturbed acres received Phase II bond release.
67 acres or 0.17% of disturbed acres received Phase III (Montana Phase IV) bond release.

Contemporaneous Reclamation can further be analyzed by comparing the rate of at which lands are being permanently reclaimed (defined as the plot of acres soiled/seeded/planted over time) to the rate of disturbance. At the end of EY2011, a total of 685 acres were permanently reclaimed (soiled/seeded/planted in preparation for final bond release), and 1,159 acres were disturbed State-wide. Cumulatively, 18,555 acres have been reclaimed and 39,733 acres have been disturbed. The percentage of reclaimed vs. disturbed has steadily risen from 38% in 1999 to 47% in 2011, which reflects favorably on the Montana program.

Customer Service

MT-DEQ provides service to all parties requesting assistance, documents or information. Its services include, but are not limited to attending or making presentations at public meetings, discussions with individuals or groups regarding the Montana coal program or related regulatory, reclamation, or government activities.

In order to evaluate effectiveness of customer service provided by the MT-DEQ-IEMB for evaluation year 2011, OSM monitored the States' interagency coordination with agencies administering the Clean Water Act (CWA). The MT-DEQ properly conducts the SMCRA/CWA coordination processes with their Bureaus.

General Oversight and Specific Topic Reviews

Surface and Groundwater Monitoring

The OSM-CFO and the MT-DEQ-IEMB selected surface and groundwater monitoring as a special study oversight evaluation topic for evaluation year 2011. This topic was selected for review after CFO received input from stakeholders, in response to CFO's outreach conducted to solicit oversight topics. Of the five permits sampled, the evaluation found the five permits are in compliance with the hydrologic monitoring requirements of the Montana rules. The review found that the MT-DEQ-IEMB is effectively utilizing monitoring data in planning for future final bond releases by establishing the types of data and trends expected to meet regulatory requirements. In addition, the MT-DEQ-IEMB is effectively utilizing monitoring data in the permitting of hydrologic reclamation plans and in the permitting of mining and reclamation practices related to post mine topography changes.

Clean Water Act Coordination

As part of OSM's "Immediate Stream Protection Measures," OSM held an interagency coordination meeting with MT-DEQ and the State/Federal regulatory agencies responsible for implementing provisions of the Clean Water Act (CWA) to ensure the best protocols and procedures are in place for coordinating issuance of the various

permits and authorizations required under SMCRA and the CWA. The MT-DEQ properly conducts the SMCRA/CWA coordination processes with their Bureaus; and MT-DEQ has a history of implementing pre-permitting application stakeholder outreach and meetings in the field with Federal agencies, local governmental agencies, and surface and mineral landowners, as necessary for SMCRA permit coordination.

State Program Amendments

During the evaluation year, the Final Rules approving (1) State Program Amendment SATS # MT-029-FOR, which addresses normal husbandry practices; (2) State Program Amendment SATS # MT-030-FOR, which addresses legislative changes regarding the determination of successful revegetation for final bond release; and (3) State Program Amendment SATS # MT-031-FOR, which addresses irrevocable letters of credit issued by banks as collateral for performance bonds, were published in the Federal Register. State Program Amendments (1) SATS # MT-032-FOR, which addresses legislative changes pertaining to coal beneficiation and coal preparation; and (2) SATS # MT-033-FOR, which addresses legislative changes pertaining to coal prospecting, are currently under review by OSM.

In response to OSM's 30 CFR Part 732 letter concerning ownership and control dated October 2, 2009, Montana initiated preparation of a rule revision package. Montana's target date for adoption of ownership and control rule revisions is June 2012.

There are no other outstanding programmatic issues unresolved in the Montana program.

Oversight Inspections

The OSM-CFO conducted one complete and four partial oversight inspections of coal mining operations in Montana during this evaluation year. The complete inspection was an unannounced independent inspection. OSM-CFO also conducted two bond release inspections of coal mining operations in Montana during this evaluation year; and OSM-CFO conducted five site visits to review areas nominated for the Excellence in Surface Mining Awards during this evaluation year.

Regulatory Program Problems and Issues

During the evaluation year, there were no regulatory program problems that required correction. There were no regulatory problems that remain uncompleted at the end of the evaluation year.

OSM Grants

OSM awarded \$1,590,731 Federal funds for Montana's Administration and Enforcement Grant.

OSM awarded \$12,441,741 Federal funds for Montana's AML Grant.

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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 the Secretary of the Interior as meeting the minimum standards specified by SMCRA. This report contains summary information regarding the Montana program and the effectiveness of the Montana program in meeting the applicable purposes of SMCRA as specified in Section 102. This report covers the period of July 1, 2010 to June 30, 2011. Detailed background information and comprehensive reports for the program elements evaluated during the period are available for review and copying at the OSM Casper Field Office (CFO), 150 East "B" Street, Casper, WY, 307-261-6555, Jeffrey Fleischman : <jfleischman@osmre.gov>.

The following acronyms are used in this report:

AOC	Approximate Original Contour
ARM	Administrative Rules of Montana
CFO	Casper Field Office
IEMB	Industrial and Energy Minerals Bureau
MPDES	Montana Pollutant Discharge Elimination System
MSUMRA	Montana Strip and Underground Mine Reclamation Act
MT-DEQ	Montana Department of Environmental Quality
NOV	Notice of Violation
OSM	Office of Surface Mining Reclamation and Enforcement
SMCRA	Surface Mining Control and Reclamation Act of 1977
TDN	Ten-Day Notice
TIPS	Technical Innovation and Professional Services
WR	Western Region

II. Overview of the Coal Mining Industry in Montana

Of the 15 major coal-producing states, Montana ranks first in coal resources and reserves and fifth based on overall production. Montana's demonstrated coal reserve base is approximately 119 billion tons, or about 25.2 percent of the total U. S. reserve base. Coalfields are found throughout the State, but most are located east of the Continental Divide and in the south central part of the State. Of the 17 coalfields in the State, two (Fort Union and Powder River) currently have producing mines. Montana coal ranges in rank from lignite to high volatile bituminous, with most of the coal currently mined being sub-bituminous. At the present rate of mining (approximately 33-45 million tons per year), Montana can sustain over 30 years of mining from the coal that is mineable from current operating mines.

Coal mining began in Montana over 100 years ago. Early coal production was almost entirely from underground mines and was largely used by smelters, railroads, and for domestic purposes by early settlers of the State. Early underground production ranged from a few hundred thousand tons to peaks of as high as five million tons during World

Wars I and II. Larger surface mining techniques after WWII boosted production to a record of nearly 45 million tons in 2008, according to reports from the State of Montana.

Total coal production in calendar year 2010 was 44.7 million tons, with 4.4 million tons coming from underground sources, as reported by the Montana Department of Revenue. According to OSM figures (Appendix 1 Table 1), total coal production in calendar year 2010 was 38.8 million tons, with 4.3 million tons coming from underground sources. That is an increase of 5.7 million tons from calendar year 2009, when total coal production equaled 33.1 million tons. This difference between OSM and Montana Department of Revenue figures is likely due to varying methods used by OSM and the State of Montana for determining and reporting coal production. These variations may be due to 1) the inclusion of Absaloka Mine production data (5.5 million tons) in the Montana Department of Revenue figures and 2) the fact that not all production is assessed AML fees.

Nearly all of Montana's coal production is used in coal-fired electrical generation facilities to produce electrical power; however, small amounts continue to be used for heating and other domestic uses on a limited regional basis.

There are currently nine active surface permits and one active underground mining permit in Montana. According to the Montana Coal Council, these mines have a total direct industry employment of approximately 1,218 people and an annual payroll of approximately \$87.6 million. Montana's surface mining industry furnishes some of the highest paying and most sought after jobs in the State.

The average size mine is 5,262 acres (Appendix 1, Table 2) with a range from 120 acres to 25,636 acres. A total of approximately 68,404 acres are currently permitted and bonded in Montana (Appendix 1, Tables 2 & 6). Approximately 38,561 acres of the 66,404 acres permitted have been disturbed by mining (Chart 1 & Appendix 1, Table 6) and 18,484 of these disturbed acres have been backfilled, graded, topsoiled, and permanently seeded to final reclamation standards (Chart 1).

III. Overview of the Public Participation and Outreach Efforts

The OSM Casper Field Office (CFO) provides for transparency in the oversight process by conducting outreach to stakeholders and encouraging public participation throughout OSM-CFO's annual oversight activities. The public can find oversight guidance documents and Montana's Performance Agreement relating to OSM's oversight of Montana's program on the following OSM website: <http://www.wrcc.osmre.gov/programs/oversight/Montana.shtm>. Each evaluation year the OSM-CFO solicits input from the public and interested parties to comment on oversight and provide suggestions for potential oversight evaluation topics.

The Montana Department of Environmental Quality (MT-DEQ) hosted a stakeholder meeting in Billings, MT on May 4, 2011, as part of its informal outreach effort to discuss proposed changes to the Administrative Rules of Montana relating to the MT-DEQ's Coal and Uranium Program. The meeting was well attended by interested citizens and the coal industry; and the MT-DEQ encouraged stakeholder review and comments.

OSM has reviewed the Montana coal program with respect to opportunities for and participation in, the public review and permitting activities done by the MT-DEQ. This review found that opportunities for public involvement in mine permitting under the Montana program exist at the following levels of their permanent program: 1) all mine permit applications, major revisions, amendments and test pits, 2) mine permit renewals, 3) mine permit transfers, 4) applications for extensions of time to commence mining, 5) mine permit bond release applications, 6) public road relocations and whenever mining is proposed within 100 feet of a public road, 7) prospecting permits and transfers and 8) prospecting permit bond release applications.

Public notice requirements for most of the program actions listed above consist, at a minimum, of having the applicant place an advertisement in a newspaper of general circulation in the locality of the proposed activity for at least once per week for four consecutive weeks, followed by a 30 day allowance for comment (the public notice for permit transfer is one publication with a 15-day comment period). Any comments received or requests for an informal conference must be formally addressed on the record. Once the mine permitting actions (except for permit transfers, which require a one-time publication by MT-DEQ) are deemed "acceptable," the MT-DEQ also publishes a notice of acceptability once per week for 2 consecutive weeks, followed by a 10-day comment period, which again allows the public to participate in the State's permitting process.

OSM's review indicates that all of the required publications are documented and of sufficient content to meet the requirements of the Montana program. The MT-DEQ also has an open door policy of making all permit applications and approved permits available for review. Since Montana is a large state, these documents are available in two office locations within Montana. Montana is currently taking steps to make at least some of this information available electronically; public notices, environmental assessments, and information on how to obtain a copy of a permit application are made available on the state website.

IV. Major Accomplishments and Innovations

MT-DEQ's Data Management Committee continues to develop protocols for submittal of electronic data, including permit application/revision submittals and annual mining reports from coal mine operators. MT-DEQ is in the second year of implementation of the Colorado Division of Reclamation Mining and Safety's (DRMS) Permit System Application user interface as a database solution. The Application integrates the Access database, an electronic document management system (FileNet), and a GIS system. Montana successfully launched their own Montana version of the Application during oversight evaluation year 2010, on-time and under budget (61% of anticipated cost). Throughout the Application design and development process, Colorado and Montana worked together to ensure a solution that would work well for both states. Montana could not have pulled off this kind of successful project without the collaborative efforts of the DRMS. Montana returned the favor, in small part, by developing a new Annual Reports tab and delivering that component to Colorado for free.

In a technology transfer sharing agreement between Colorado and Montana, the additional data attributes developed for the MT-DEQ including environmental resources definitions, mining and reclamation requirements, and mining and reclamation plan

annual reporting will be used to enhance the Colorado DRMS Permit System Application. Colorado DRMS recently launched a bond calculation software application. MT-DEQ is currently integrating the application into the Coal Application system.

V. Success in Achieving the Purposes of SMCRA

OSM Directive REG-8 (REG-8) dictates that OSM oversight of State programs will focus on the on-the-ground/end-result success of the State programs in achieving the purposes of SMCRA. To further the concept of reporting end-results and on-the-ground success, each OSM field office is required by REG-8 to prepare findings from performance standard evaluations of 1) off-site impacts, 2) reclamation success and 3) customer service. These evaluations are required to report the number and degree of off-site impacts, the number and percentage of inspectable units free of off-site impacts; the number of acres that meet the bond release requirements and have been released by the State for the various phases of reclamation; and the effectiveness of customer service provided by the State. In addition to this required information, the CFO and MT-DEQ agreed to further evaluate reclamation success with specific evaluations, as allowed in REG-8 and as addressed in the Regulatory Performance Agreement in effect for the evaluation year. Specific evaluations were conducted to compare and evaluate the number of acres reclaimed (soiled/seeded/planted) to the number of acres mined (disturbed).

A. Off-Site Impacts

For the purpose of oversight, a negative off-site impact is defined as anything resulting from a surface coal mining and reclamation activity or operation that causes a negative effect on people, land, water, or structures outside the permit area. In addition, the impact on the resource must be substantiated and be related to mining and reclamation activity. It must be outside the area authorized by the permit for conducting mining and reclamation activities. As a part of this oversight, MT-DEQ and CFO developed an oversight work plan to evaluate and document the effectiveness of the Montana program in protecting the environment and the public from negative off-site impacts resulting from surface and underground mining operations in Montana.

Several sources of information have been selected for identifying off-site impacts. These include but are not limited to: State and OSM inspection reports, enforcement actions, civil penalty assessments, citizens' complaints, special studies and information from other environmental agencies. If an off-site impact is identified, the sources of information and the basis used to identify and report these impacts will be clearly recorded. Field evaluations for off-site impacts were conducted during routine inspections by MT-DEQ. CFO conducted one complete and four partial oversight inspections. One of the partial inspections was an independent inspection. Off-site impacts were not identified during the reporting period (see Appendix 1, Table 5).

B. Reclamation Success:

OSM evaluates the effectiveness of the State program in achieving reclamation success based on the number of acres that meet the bond release standards and have been released

(reported in Appendix 1, Table 6). During this evaluation year, information was collected to measure program performance in the area of contemporaneous reclamation. According to REG-8, although not an on-the-ground measure of reclamation success reported in Table 6, contemporaneous reclamation is an important purpose of SMCRA “..... to assure that adequate procedures are undertaken to reclaim surface areas as contemporaneously as possible with the surface coal mining operations.” Contemporaneous reclamation data provides an overall perspective of how successfully reclamation is staying current with mining in the State.

According to REG-8, the measurement for contemporaneous reclamation may be measured by evaluating the timeliness of Phase I, Phase II and Phase III bond releases. The intent of this measurement is to provide an overall general picture of how successfully reclamation is staying current with mining in the State.

Reclamation activity has and is occurring in Montana. The number of acres receiving 100% final release (OSM Phase III / MT DEQ Phase IV) is small compared to the number of mined acres actually regraded, soiled and seeded. For Phase IV bond release to occur in Montana, all disturbed lands within an entire drainage basin must be reclaimed to the final reclamation criteria before any acres receive final bond release. Table 6 of Appendix 1 catalogues the acreage of land released from bond for OSM Phase I, II and III. As Montana has a four phase bond release and in order to report Montana’s bond release actions, Montana’s Phase III and Phase IV bond release will be utilized in the evaluation of reclamation success.

Montana reclamation phase III is deemed to have been completed when:

- (i) the applicable responsibility period (which commences with the completion of any reclamation treatments as defined in ARM 17.24.725) has expired and the revegetation criteria in ARM 17.24.711, 17.24.713, 17.24.714, 17.24.716 through 17.24.718, 17.24.721, 17.24.723 through 17.24.726, 17.24.731, and 17.24.815, as applicable to and consistent with the approved postmining land use are met;
- (ii) a stable landscape has been established consistent with the approved postmining land use;
- (iii) the lands are not contributing suspended solids to stream flow or runoff outside the permit area in excess of the requirements of ARM 17.24.633 or the permit; and
- (iv) as applicable, the provisions of a plan approved by the department for the sound future management of any permanent impoundment by the permittee or landowner have been implemented to the satisfaction of the department; or
- (v) the lands meet the special conditions provided in 82-4-235(3)(a), MCA;

Montana reclamation phase IV is deemed to have been completed when:

- (i) all disturbed lands within any designated drainage basin have been reclaimed in accordance with the phase I, II, and III requirements;
- (ii) fish and wildlife habitats and related environmental values have been restored, reclaimed, or protected in accordance with the Act, the rules, and the approved permit;
- (iii) with respect to the hydrologic balance, disturbance has been minimized and offsite material damage has been prevented in accordance with the Act, the rules, and the approved permit;

- (iv) alternative water sources to replace water supplies that have been adversely affected by mining and reclamation operations have been developed and are functional in accordance with the Act, the rules, and the approved permit;
- (v) the reestablishment of essential hydrologic functions and agricultural productivity on alluvial valley floors has been achieved;
- (vi) implementation of any alternative land use plan approved pursuant to ARM 17.24.821 and 17.24.823 has been successfully achieved; and
- (vii) all other reclamation requirements of the Act, rules, and the permit have been met.

As part of the evaluation of reclamation success, OSM will adhere to the guidelines as contained in REG 8 for each of the four areas:

a. Land form/approximate original contour (AOC)

MEASUREMENT: AOC achievement will be measured by the acres of Phase I bond released. Acreage disturbed by mining activities that has been released under Phase I bond liability will be documented as having achieved AOC. To date 38,561 acres have been disturbed and of that 16,617 acres (43%) have received Phase I bond release in Montana.

b. Land Capability

There are several measurements that may be conducted to demonstrate the reestablishment of land capability on mined areas.

MEASUREMENT: Proper replacement of soil resources will be measured by acres of Phase II bond release. Where soil replacement is a Phase II reclamation activity this measurement will be Phase II bond release. To date 38,561 acres have been disturbed and of that 12,412 acres (32%) have received Phase II bond release in Montana.

MEASUREMENT: Vegetation stability will be measured by acres of Phase II bond release. Acreage released from Phase II bond liability can be documented as having achieved erosion stability. To date 38,561 acres have been disturbed and of that 12,412 acres (32%) have received Phase II bond release in Montana.

MEASUREMENT: Achievement of postmining land uses will be measured by acres of Montana Phase III bond release. Land capability is demonstrated by the acres for which the approved post mining land uses have been achieved. The acreage released from Montana Phase III bond liability can be documented as having achieved the approved post mining land uses. To date 38,561 acres have been disturbed and of that 3,311 acres (9%) have received Montana Phase III bond release.

MEASUREMENT: Successful revegetation will be measured by the acres of Montana Phase III bond release. Land capability is demonstrated by the acres for which revegetation success has been successfully demonstrated for the land use at the time of Montana Phase III bond release. To date 38,561 acres have been disturbed and of that 3,311 acres (9%) have received Montana Phase III bond release.

c. Hydrologic Reclamation

There are several measurements that may be conducted to demonstrate the reestablishment of the hydrologic balance and successful hydrologic reclamation on mined areas. Phase IV bond release in Montana ensures hydrologic reclamation has occurred. It should be noted that for Phase IV bond release to occur in Montana, an entire drainage must be reclaimed to the Phase IV criteria before any final bond release can take place. For this reason, few acres of Phase IV bond release have occurred.

MEASUREMENT: Achievement of surface water quality and quantity restoration can be measured by acres of Montana Phase IV bond release. Surface water quality and quantity restoration may be measured in terms of acres released from bond liability. Montana Phase IV bond release will document that water quality meets surface water quality standards and water quantity is adequate for its intended use. To date 38,561 acres have been disturbed and of that 57 acres (.15%) have received Montana Phase IV bond release.

MEASUREMENT: Achievement of groundwater recharge capacity and ground water quantity and quality restoration can be measured by acres of Montana Phase IV bond release. Groundwater recharge, quality and quantity will be measured in terms of acreage released from Montana Phase IV bond liability. To date 38,561 acres have been disturbed and of that 57 acres (.15%) have received Montana Phase IV bond release.

MEASUREMENT: Achievement of surface water quality and quantity restoration can be measured by acres of Montana Phase IV bond release. Bond release will document that the water quality and quantity leaving the mine site meets the applicable standards. Montana Phase IV bond liability can be considered as having achieved restoration of this aspect of surface water quality and quantity. To date 38,561 acres have been disturbed and of that 57 acres (.15%) have received Montana Phase IV bond release.

d. Contemporaneous Reclamation

According to the measurements used in REG-8 and reviews of current reclamation plans, our analysis shows that the State program is effective in achieving its goal of having disturbed lands reclaimed to the approved post-mining land use as contemporaneously as possible. Both State and Federal regulations do not require that an operator file for bond release at any prescribed time. Therefore, operators typically do not file for Final bond release until it is economically advantageous for them to do so. Operators tend to wait until large tracts of land are eligible for bond release and then apply for them; for example, at completion of the entire mining operation. As a result, the number of acres released from Final bond is relatively small compared to the number of acres actually regraded, soiled and seeded. It should also be noted that these REG-8 measurements are not the only measurements that can be used to determine how contemporaneous reclamation is occurring.

The OSM-CFO believes another general measurement for contemporaneous reclamation is a comparison of the rate at which lands are being permanently reclaimed (soiled/seeded/planted) to the rate of disturbance. Ideally, the rate of reclamation should match the rate of disturbance.

MEASUREMENT: The OSM-CFO elected to measure contemporaneous reclamation by evaluating the rate at which disturbed lands are regraded, resoiled and seeded to the rate of mining.

The following chart and graph are used to show the rate at which lands are being permanently reclaimed (soiled/seeded/planted in preparation for final bond release) compared to the rate of disturbance. Lands in these charts are considered permanently reclaimed (seeded) when they are seeded with permanent vegetation consisting of species as prescribed in the reclamation plan of the approved permit. These permanently reclaimed (seeded) lands include lands that have obtained phase II bond release status, lands that have obtained phase III bond release status and permanently reclaimed (seeded) lands for which phase II bond release has not been sought. These permanently reclaimed (seeded) lands may also include permanently reclaimed (seeded) lands that have obtained phase I bond release status and permanently reclaimed (seeded) lands for which phase I bond release has not been sought.

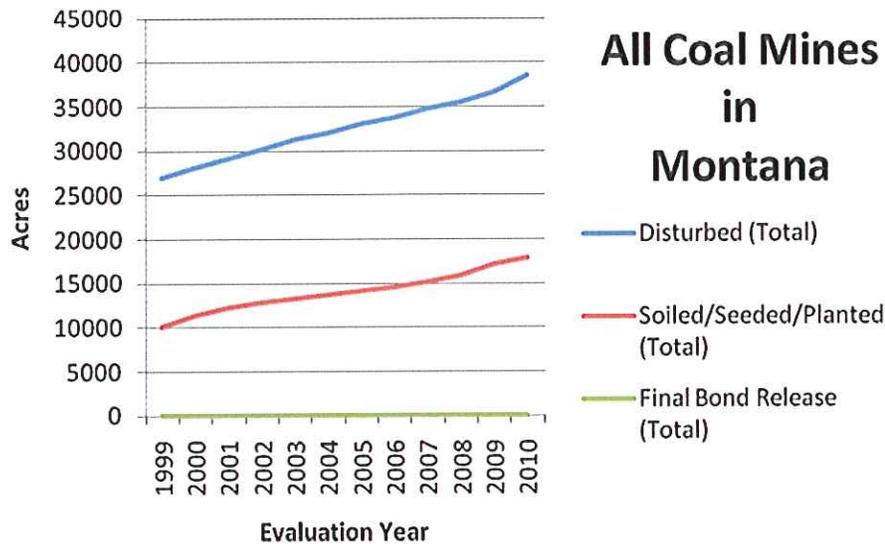
Chart 1
MONTANA RECLAMATION SUMMARY

EVALUATION YEAR	ACRES DISTURBED	Cumulative Acres Dist.	ACRES RECLAIMED	Cumulative Acres Recl.	RATIO OF RECLAM VS DISTURB	Cumulative RATIO OF RECLAM VS DISTURB
1999	940	27,040	710	10,161	0.76	0.38
2000	1163	28,203	1,240	11,401	1.07	0.40
2001	889	29,092	848	12,249	0.95	0.42
2002	1143	30,235	647	12,896	0.57	0.43
2003	1040	31,275	424	13,320	0.41	0.43
2004	739	32,014	353	13,673	0.48	0.43
2005	1082	33,096	470	14,143	0.43	0.43
2006	710	33,806	422	14,565	0.59	0.43
2007	1004	34,810	587	15,152	0.58	0.44
2008	766	35,576	794	15,946	1.04	0.45
2009	1110	36,686	1,196	17,142	1.08	0.47
2010	1888	38,574	728	17,870	0.39	0.46
2011	1159	39,733	685	18,555	0.59	0.47

Source: Government Performance Reporting Act (GPRA) data collected from MT-DEQ; evaluation year data represents data for the calendar year preceding each evaluation year

Chart 1 provides the actual acres disturbed and reclaimed annually for all mines. When considering the overall decrease in acres reclaimed in Montana during evaluation year 2011, the progression of reclamation in Montana is still good, as indicated by the 0.59 ratio of reclaimed acres to disturbed acres in Chart 1. The number of acres reclaimed during the evaluation year represents 59% of the number of acres disturbed during the evaluation year. The cumulative reclamation to disturbance ratio has increased since 1999 and is currently 0.47, as indicated in the chart. This ratio indicates that the rate of reclamation is increasing in Montana. This ratio indicates that 47 percent of the cumulative acres disturbed in Montana have been reclaimed to the point of being backfilled, graded and seeded.

Approximately 18.0 percent of the cumulative disturbed lands on Montana coal mines consist of facilities, such as buildings, ponds, haul roads, soil and overburden stockpiles and other long-term disturbances. These disturbances are necessary in the operation of the mine until mining operations are completed. The total current size of all Montana coal facilities is reported as 7,272 acres. When subtracting the acreage of the facilities from the cumulative disturbance, the ratio of reclamation to net disturbance is 0.57.



Source of data: MTDEQ

The OSM-CFO feels that reclamation in Montana is occurring as contemporaneously as practicable. Reclamation success varies between operations. Some of the delays in reclamation can be explained as part of the normal mining process. Differences in the ratios of disturbance vs. reclamation could be due to the nature of the mining operations in Montana, or there could be delays in backfilling & grading or permanent seeding operations due to the mines' operational emphasis on coal production over reclamation.

A significant increase in the development of new mine areas will result in a predictable delay in final reclamation. When mining ceases in a pit area, a large spoil area behind the final pit cannot be reclaimed as quickly as desired. This is because the spoil material must be transported and used to backfill the final pit to meet approximate original contour (AOC) requirements. This can cause a short term delay in final reclamation. However, as the spoil piles are re-graded and the final pit is properly backfilled to AOC requirements, large acreages will likely be reclaimed in future years. Likewise, as new areas are developed, several pits must be mined before a large enough area is available to move and re-grade boxcut spoils to ensure the AOC requirements are met. Once enough boxcut spoil has been placed in its final location to meet AOC requirements, large areas become available for soil re-spreading and seeding. A trend of reclamation delays, as indicated by a progressing pattern of divergence on the plots of Total Area Disturbed vs. Total Area Soiled/Seeded/Planted may require future action on the part of the state regulatory authority or OSM.

More detailed information concerning reclamation success and contemporaneous reclamation in Montana is available in a topic specific oversight report within the Montana Annual Evaluation file. The evaluation file is available for review at the OSM-CFO and from the following OSM website:

<<http://www.wrcc.osmre.gov/programs/oversight/Montana.shtm>>. Contact information for the OSM-CFO is provided in the Introduction section of this report.

C. Customer Service:

The coal program in Montana is administered by the Industrial and Energy Minerals Bureau (IEMB), a bureau under the MT-DEQ. IEMB provides service to all parties requesting assistance, documents or information, and regulates the coal mining industry within the State. Its services include, but are not limited to attending or making presentations at public meetings, discussions with individuals or groups regarding the Montana coal program or related regulatory, reclamation, or government activities.

In addition to the services provided to the general public, the coal program staff and management also contribute to task forces and ad-hoc committees in relation to inter- and intra-agency problem solving committees and panels. Some coal program personnel also plan and/or participate in various symposia, seminars, and workshops in relation to technical and legal aspects of coal prospecting, mining, and reclamation.

In order to evaluate effectiveness of customer service provided by the MT-DEQ-IEMB for evaluation year 2011, OSM monitored the States' interagency coordination with agencies administering the Clean Water Act (CWA). As indicated in Chapter VI. B. (below), the MT-DEQ properly conducts the SMCRA/CWA coordination processes with their Bureaus; and MT-DEQ has a history of implementing pre-permitting application stakeholder outreach and meetings in the field with Federal agencies, local governmental agencies, and surface and mineral landowners, as necessary for SMCRA permit coordination.

VI. National Priority and General Oversight Topic Reviews

A. Surface Water and Groundwater Monitoring

The OSM-CFO and the MT-DEQ-IEMB selected surface and groundwater monitoring as a special study oversight evaluation topic for evaluation year 2011. This topic was selected for review after CFO received input from stakeholders, in response to CFO's outreach conducted to solicit oversight topics. The evaluation was conducted to determine compliance of permit-specific surface and groundwater monitoring requirements with hydrologic monitoring requirements, as defined by Montana state program rules; and to determine the overall effectiveness of surface and groundwater monitoring. CFO's Detailed Oversight Work Plan for conducting the evaluation recommended that OSM and MT-DEQ evaluate 20 per cent of all active coal mine permits in Montana.

The surface and groundwater monitoring work plan specified three measures of the overall effectiveness of monitoring. The first measure was based on the monitoring plans and water parameters monitored. The second aspect was based on MT-DEQ utilization

of monitoring data for substantiating requirements for Montana phase IV bond release (demonstrating disturbance to the hydrologic balance has been minimized and offsite material damage has been prevented). The third measure was based on MT-DEQ utilization of monitoring data for recognizing any significant trends in fluctuations of water quality parameters or water quantity/flow that could influence future permitting of hydrologic monitoring plans or specific mining and reclamation practices in Montana.

Surface Water and Groundwater Monitoring Findings

The OSM-CFO and MT-DEQ-IEMB staff selected five permitted areas of Western Energy Company's (WECO) Rosebud Mine complex (Areas A, B, C, D and E) for evaluation. The evaluation focused on reports/data received from mine operators, permit revisions, field inspection reports, and correspondence relevant to surface and groundwater monitoring. The review team reviewed (1) Annual Hydrology Report (AHR) Reviews, (2) Inspection Reports, (3) Monitoring Plans, (4) Cumulative Hydrologic Impact Analyses, (5) Minor Revisions, and (6) miscellaneous documents consisting of various correspondence relevant to surface and groundwater monitoring.

The five permits are in compliance with the hydrologic monitoring requirements of the Montana rules. Based on the documents reviewed, there is a lack of any identified problems.

Some large areas of recent final reclamation (soiled and seeded) such as Area C-North and East part of Area D provide the opportunity for the IEMB to begin recovery monitoring of groundwater outside the influence of active mining. These areas are the focus of new well installations in backfill aquifer and aquifer below spoil (sub-McKay aquifer).

The MT-DEQ-IEMB is effectively utilizing monitoring data in planning for future final bond releases by establishing the types of data and trends expected to meet regulatory requirements. In addition, the MT-DEQ-IEMB is effectively utilizing monitoring data in the permitting of hydrologic reclamation plans and in the permitting of mining and reclamation practices related to post mine topography changes.

More detailed information concerning surface water and groundwater monitoring is available in a topic specific oversight report within the Montana Annual Evaluation file. The evaluation file is available for review at the OSM-CFO and from the following OSM website: <<http://www.wrcc.osmre.gov/programs/oversight/Montana.shtml>>. Contact information for the OSM-CFO is provided in the Introduction section of this report.

B. Clean Water Act Coordination

As part of OSM's "Immediate Stream Protection Measures," OSM held an interagency coordination meeting with MT-DEQ and the State/Federal regulatory agencies responsible for implementing provisions of the Clean Water Act (CWA) to ensure the best protocols and procedures are in place for coordinating issuance of the various permits and authorizations required under SMCRA and the CWA. The MT-DEQ properly conducts the SMCRA/CWA coordination processes with their Bureaus; and MT-DEQ has a history of implementing pre-permitting application stakeholder outreach

and meetings in the field with Federal agencies, local governmental agencies, and surface and mineral landowners, as necessary for SMCRA permit coordination.

C. State Program Amendments

The state program amendment process in Montana has been ongoing and constant since the Montana program was originally approved by OSM in April, 1980. Since that date, in response to rule challenges, court decisions and new rulemaking, the Federal reclamation regulations have also changed and evolved. In most cases, this Federal evolution required corresponding adjustments to the Montana and other state programs.

Overall, Montana's program is consistent with SMCRA and the Federal regulations. During the evaluation year, the Final Rules approving (1) State Program Amendment SATS # MT-029-FOR, which addresses normal husbandry practices; (2) State Program Amendment SATS # MT-030-FOR, which addresses legislative changes regarding the determination of successful revegetation for final bond release; and (3) State Program Amendment SATS # MT-031-FOR, which addresses irrevocable letters of credit issued by banks as collateral for performance bonds, were published in the Federal Register.

State Program Amendments (1) SATS # MT-032-FOR, which addresses legislative changes pertaining to coal beneficiation and coal preparation; and (2) SATS # MT-033-FOR, which addresses legislative changes pertaining to coal prospecting, are currently under review by OSM.

In response to OSM's 30 CFR Part 732 letter concerning ownership and control dated October 2, 2009, Montana initiated preparation of a rule revision package. Montana's target date for adoption of ownership and control rule revisions is June 2012.

At this time, there are no other outstanding programmatic issues unresolved in the Montana program. Both OSM and the MT-DEQ are trying to streamline and improve the amendment approval process through better cooperation and communication on both the Federal and State levels.

D. Oversight Inspections

The CFO conducted one complete and four partial oversight inspections of coal mining operations in Montana during this evaluation year. The complete inspection was an unannounced independent inspection. CFO also conducted two bond release inspections of coal mining operations in Montana during this evaluation year; and CFO conducted five site visits to review areas nominated for the Excellence in Surface Mining Awards during this evaluation year.

In addition to the five oversight inspections conducted by OSM in Montana during this evaluation year, OSM conducted four complete and nine partial Indian Lands Program mine site inspections of the Absaloka Mine, located on the Crow "Ceded Lands" in Montana. OSM shares the regulatory authority responsibilities for the Indian Lands Program on the Crow "Ceded Lands" with MT-DEQ. The reason for this shared authority is because the Absaloka mine is located outside the boundary of the Crow

Indian Reservation on the Ceded Lands (Ceded Area) where the Crow Tribe owns the minerals, but not the surface. Under a court ordered Memorandum of Understanding (MOU) in effect between MT-DEQ and OSM since 1985, MT-DEQ takes the lead in the analysis and review of permitting actions on the Ceded Area under the Montana regulatory program, while OSM provides input and evaluates MT-DEQ's analysis and conclusions as necessary to determine whether OSM concurs with MT-DEQ's permitting decisions. OSM's responsibilities under the MOU are conducted by the CFO. The CFO fulfills OSM's functions and responsibilities for the management of coal mining on Indian Lands by coordinating the review and comment of Absaloka Mine pending permitting actions with the Bureau of Indian Affairs, the Bureau of Land Management, and the Crow Tribe. The MOU does not relieve OSM of its obligations for regulation of Indian Lands under the Indian Lands Program, which includes conducting inspections.

VII. Regulatory Program Problems and Issues

During the evaluation year, there were no regulatory program problems that required correction. There were no regulatory problems that remain uncompleted at the end of the evaluation year.

VIII. OSM Assistance

A. National Technical Training Program (NTTP)

The National Technical Training Program (NTTP) was not able to provide records pertaining to attendance of MT-DEQ staff at NTTP training courses during the evaluation year.

B. Technical Innovation and Professional Services (TIPS)

During the evaluation year five MT-DEQ staff members attended TIPS training courses. One of the staff members attended two of the training courses, and one staff member was an instructor for a mobile computing training course.

Chart 2
TIPS Training Attended by Montana IEMB Staff for EY 2011

TIPS-CAD 300: AutoCAD Map 3D with Raster Design for Underground and Surface Mine Mapping	08/12/10
TIPS-Modeling and Analysis with Groundwater Vistas	09/02/10
TIPS-Introduction to earthVision 2D and 3D Modeling	09/16/10
TIPS-SEDCAD Applications and Extensions for Mine Permitting and Reclamation	03/31/11
TIPS-Introduction to earthVision 2D and 3D Modeling	04/28/11

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APPENDIX 1

Summary of Core Data to Characterize the Regulatory Program

The following tables present summary data pertinent to mining operations and regulatory activities under the Montana regulatory program. Unless otherwise specified, the reporting period for the data contained in the tables is the Evaluation Year. Other data and information used by OSM in its evaluation of Montana's performance is available for review in the evaluation file maintained by OSM-CFO.

Because of the enormous variations from state to state and tribe to tribe in the number, size, and type of coal mining operations and the differences between state and tribal programs, the summary data should not be used to compare one state or tribe to another.

List of Tables

- Table 1 Coal Produced for Sale, Transfer, or Use
- Table 2 Permanent Program Permits, Initial Program Sites, Inspectable Units, and Exploration
- Table 3 Permits Allowing Special Categories of Mining
- Table 4 Permitting Activity
- Table 5 Off-site Impacts
- Table 6 Surface Coal Mining and Reclamation Activity
- Table 7 Bond Forfeiture Activity
- Table 8 Regulatory and AML Programs Staffing
- Table 9 Funds Granted to State or Tribe by OSM
- Table 10 State or Tribal Inspection Activity
- Table 11 State or Tribal Enforcement Activity
- Table 12 Lands Unsuitable Activity
- Table 13 OSM Oversight Activity

TABLE 1

COAL PRODUCED FOR SALE, TRANSFER, OR USE

Calendar Year	Surface Mines	Underground Mines	Total
2007	35.600	0.137	35.737
2008	37.314	0.164	37.478
2009	32.411	0.683	33.094
2010	34.494	4.324	38.818

^A Coal production is the gross tonnage (short tons) and includes coal produced during the calendar year (CY) for sale, transfer or use. The coal produced in each CY quarter is reported by each mining company to OSM during the following quarter on line 8(a) of form OSM-1, "Coal Reclamation Fee Report." Gross tonnage does not provide for a moisture reduction. OSM verifies tonnage reported through routine auditing of mining companies. This production may vary from that reported by other sources due to varying methods of determining and reporting coal production.

TABLE 2

PERMANENT PROGRAM PERMITS, INITIAL PROGRAM SITES, INSPECTABLE UNITS, AND EXPLORATION

Mines and Other Facilities	Numbers of Permanent Program Permits and Initial Program Sites									Area in 1's of acres					
	Permanent Program Permits				Initial Program Sites					Permanent Program Permits (Permit Area)			Initial Program Sites		Total Area
	Active	Inactive	Aban- doned	Total	Active	Inactive	Aban- doned	Total	Insp. Units ¹	Federal Lands	State/ Tribal and Private Lands	Federal Lands	State/ Tribal and Private Lands		
Surface Mines	9	3	0	12	0	0	0	0	12	40,026.0	21,936.0	0.0	0.0	61,962.0	
Underground Mines	1	0	0	1	0	0	0	0	1	0.0	6,442.0	0.0	0.0	6,442.0	
Other Facilities	0	0	0	0	0	0	0	0	0	0.0	0.0	0.0	0.0	0.0	
Total	10	3	0	13	0	0	0	0	13	40,026.0	28,378.0	0.0	0.0	68,404.0	
Permanent Program Permits and Initial Program Sites:				Total Number:	13				Average Acres per Site:			5,261.85			
Average Number of Permanent Program Permits and Initial Program Sites per Inspectable Unit (IU):					1.00				Average Acres per IU:			5,261.85			
Permanent Program Permits in Temporary Cessation:				Total Number:	3				Number More than 3 Years:			2			

EXPLORATION SITES

Number of Exploration Sites with Permits:	Total number of permit sites:	4	Sites with Federal lands ² :	1
Number of Exploration Sites with Notices:	Total number of notice sites:	1	Sites with Federal lands ² :	2

¹An Inspectable Unit may include multiple small and neighboring Permanent Program Permits or Initial Program Sites that have been grouped together as one Inspectable Unit, or conversely, an Inspectable Unit may be one of multiple Inspectable Units within a Permanent Program Permit.

²When a Permanent Program Permit or Initial Program Site contains both Federal and State and Private lands, the acreage for each type of land is in the applicable column.

³The number of Exploration Sites with Federal lands includes sites with exploration permits or notices any part of which is regulated by the state under a cooperative agreement or by OSM pursuant to the Federal Lands Program, but excludes exploration sites that are regulated by the Bureau of Land Management.

TABLE 3

PERMITS ALLOWING SPECIAL CATEGORIES OF MINING			
Special Category of Mining	30 CFR Citation Defining Permits Allowing Special Mining Practices	Numbers of Permits	
		Issued During EY	Total Active and Inactive Permits
Experimental Practice	785.13(d)	0	0
Mountaintop Removal Mining	785.14(e)(5)	0	0
Steep Slope Mining	785.15(e)	0	0
AOC Variances for Steep Slope Mining	785.16(b)(2)	0	0
Prime Farmlands Historically Used for Cropland	785.17(e)	0	0
Contemporaneous Reclamation Variances	785.18(e)(9)	0	0
Mining on or Adjacent to Alluvial Valley Floors	785.19(e)(2)	0	1
Auger Mining	785.20(e)	0	0
Coal Preparation Plants Not Located at a Mine Site	785.21(e)	0	0
In-Situ Processing	785.22(e)	0	0
Remining	773.15(n) and 785.25	0	0
Activities in or Within 100 Feet of a Perennial or Intermittent Stream	780.28(d) and/or (e) 784.28(d) and/or (e)	0	0

TABLE 5

**OFF-SITE IMPACTS
EXCLUDING BOND FORFEITURE SITES**

RESOURCES AFFECTED		People			Land			Water			Structures		
DEGREE OF IMPACT		Minor	Moderate	Major	Minor	Moderate	Major	Minor	Moderate	Major	Minor	Moderate	Major
TYPE OF IMPACT EVENT	NUMBER OF EVENTS												
Blasting	0	0	0	0	0	0	0	0	0	0	0	0	0
Land Stability	0	0	0	0	0	0	0	0	0	0	0	0	0
Hydrology	0	0	0	0	0	0	0	0	0	0	0	0	0
Encroachment	0	0	0	0	0	0	0	0	0	0	0	0	0
Other	0	0	0	0	0	0	0	0	0	0	0	0	0
Total	0	0	0	0	0	0	0	0	0	0	0	0	0

Total Number of Inspectable Units²: 13
 Inspectable Units with one or more off-site impacts: 0
 Inspectable Units free of off-site impacts: 13 % of Inspectable Units free of off-site impacts²: 100.0

OFF-SITE IMPACTS AT BOND FORFEITURE SITES

RESOURCES AFFECTED		People			Land			Water			Structures		
DEGREE OF IMPACT		Minor	Moderate	Major	Minor	Moderate	Major	Minor	Moderate	Major	Minor	Moderate	Major
TYPE OF IMPACT EVENT	NUMBER OF EVENTS												
Blasting	0	0	0	0	0	0	0	0	0	0	0	0	0
Land Stability	0	0	0	0	0	0	0	0	0	0	0	0	0
Hydrology	0	0	0	0	0	0	0	0	0	0	0	0	0
Encroachment	0	0	0	0	0	0	0	0	0	0	0	0	0
Other	0	0	0	0	0	0	0	0	0	0	0	0	0
Total	0	0	0	0	0	0	0	0	0	0	0	0	0

Total Number of Inspectable Units²: 0
 Inspectable Units with one or more off-site impacts: 0
 Inspectable Units free of off-site impacts: 0 % of Inspectable Units free of off-site impacts²: 0.0

TABLE 5
(Continued)

TOTAL OFF-SITE IMPACTS INCLUDING BOND FORFEITURE SITES													
RESOURCES AFFECTED		People			Land			Water			Structures		
DEGREE OF IMPACT		Minor	Moderate	Major	Minor	Moderate	Major	Minor	Moderate	Major	Minor	Moderate	Major
TYPE OF IMPACT EVENT	NUMBER OF EVENTS												
Blasting	0	0	0	0	0	0	0	0	0	0	0	0	0
Land Stability	0	0	0	0	0	0	0	0	0	0	0	0	0
Hydrology	0	0	0	0	0	0	0	0	0	0	0	0	0
Encroachment	0	0	0	0	0	0	0	0	0	0	0	0	0
Other	0	0	0	0	0	0	0	0	0	0	0	0	0
Total	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Number of Inspectable Units ² :				13									
Inspectable Units with one or more off-site impacts:				0									
Inspectable Units free of off-site impacts:				13									
										% of Inspectable Units free of off-site impacts ¹ :		100.0	
¹ % of Inspectable Units free of off-site impacts is based on the number of Inspectable Units at the end of the Evaluation Year. The number of Inspectable Units may vary during the Evaluation Year.													
² Total number of Inspectable Units is (1) the number of Inspectable Units at the end of the Evaluation Year and (2) the number of permanent program permits terminated under Phase III bond release during the Evaluation Year and (3) the number of Initial Program Sites with jurisdiction terminated during the Evaluation Year and (4) the number of bond forfeiture sites that were reclaimed during the Evaluation Year.													

TABLE 6

Montana
EY 2011, ending June 30, 2011

SURFACE COAL MINING AND RECLAMATION ACTIVITY							
Areas of Phase I, II and III Releases During the Evaluation Yeay (EY)							
Phase I Releases	Phase II Releases		Phase III Releases				
Total Acres Released in Approved Phase I Releases	Total Acres Released in Approved Phase II Releases	Acres not previously released under Phase I	Total Acres Released in Approved Phase III Releases	Acres not previously released under Phase II	Acres not previously released under Phase I or II	Total Acres Released During the EY	
1399.00		0.00			0.00	Phase I 1399.00	
	1237.00			0.00		Phase II 1237.00	
			7.00			Phase III 7.00	
Cumulative Total Acres Release under All Bond Release Phases at the End of the Evaluation Year						2643.00	
Number of Permanent Program Permits Terminated under Phase III Bond Release and Initial Program Sites with Jurisdiction Terminated During the Evaluation Year						2.00	
Areas of Permits Bonded for Disturbance by Surface Coal Mining and Reclamation Operations							
					Total Acres at Start of EY	Total Acres at End of EY	Change in Acres During EY
New Area and Cumulative Area Bonded for Disturbance					66361.00	68455.00	2094.00
Area Bonded for Disturbance without Phase I Bond Release					39968.00	39426.00	-542.00
Area Bonded for Disturbance for which Phase I Bond Release Has Been Approved					15218.00	16617.00	1399.00
Area Bonded for Disturbance for which Phase II Bond Release Has Been Approved					11175.00	12412.00	1237.00
Total Area Bonded for Disturbance					66361.00	68455.00	2094.00
Area Bonded for Remining					0.00	0.00	0.00
Areas of Permits Disturbed by Surface Coal Mining and Reclamation Operations							
Disturbed Area					37484.00	38561.00	1077.00

TABLE 7

BOND FORFEITURE ACTIVITY (Permanent Program Permits)			
Bond Forfeiture and Reclamation Activity	Number of Sites	Dollars	Acres
Sites with bonds forfeited and collected that were un-reclaimed at the start of the current Evaluation Year (i.e. end of previous Evaluation Year) ¹	0		0
Sites with bonds forfeited and collected during the current Evaluation Year	0	0	0
Sites with bonds forfeited and collected that were re-permitted during the current Evaluation Year	0		0
Sites with bonds forfeited and collected that were reclaimed during the current Evaluation Year	0		0
Sites with bonds forfeited and collected that were un-reclaimed at the end of the current Evaluation Year ¹	0		0
Sites with bonds forfeited but un-collected at the end of the current Evaluation Year	0		0
Forfeiture Sites with Long-Term Water Pollution			
Bonds forfeited, lands reclaimed, but water pollution is still occurring	0		
Bonds forfeited, lands reclaimed, and water treatment is ongoing	0		
Surety/Other Reclamation Activity In Lieu of Forfeiture			
Sites being reclaimed by surety/other party at the start of the current Evaluation Year (i.e., the end of previous Evaluation Year) ²	0		0
Sites where surety/other party agreed during the current Evaluation Year to do reclamation	0		0
Sites being reclaimed by surety/other party that were re-permitted during the current Evaluation Year	0		0
Sites with reclamation completed by surety/other party during the current Evaluation Year ³	0		0
Sites being reclaimed by surety/other party at the end of the current Evaluation Year ²	0		0

¹ Includes data only for those forfeiture sites not fully reclaimed.
² Includes all sites where surety or other party has agreed to complete reclamation and the site is not fully reclaimed.
³ These sites are also reported in Table 6, Surface Coal Mining and Reclamation Activity, because Phase III bond release would be granted on these sites.

TABLE 8

REGULATORY AND AML PROGRAMS STAFFING

Function	Number of FTEs
Regulatory Program	
Permit Review and Maintenance	9.00
Inspection	6.00
Other (supervisory, clerical, administrative, fiscal, personnel, etc.)	2.00
Regulatory Program Total	17.00
AML Program Total	12.50
TOTAL	29.50

TABLE 9

FUNDS GRANTED TO STATE OR TRIBE BY OSM (Actual Dollars Rounded to the Nearest Dollar)			
Type of Funding	Federal Funds Awarded	Total Program Cost	Federal Funds Awarded as a Percentage of Total Program Costs
Regulatory Funding			
Administration and Enforcement Grant	1,590,731		
Other Regulatory Funding, if applicable	0		
Subtotal (Regulatory Funding)	1,590,731	1,840,865	86
Small Operator Assistance Program Grant Funding	0	0	
Abandoned Mine Land Reclamation Funding	12,441,741	12,441,741	100
Watershed Cooperative Agreement Program	0	0	
TOTAL	14,032,472		

TABLE 10

STATE OR TRIBAL INSPECTION ACTIVITY							
Permits and Sites		Complete Inspections			Partial Inspections		
Activity Status	Number of Permits and Sites	Inspections Required Annually	Approximate Number of Required Inspections ²	Number of Complete Inspections Conducted	Inspections Required Annually	Approximate Number of Required Inspections ²	Number of Partial Inspections Conducted
Approximate Number of Required Inspections of Permanent Program Permits							
Active	10	4	40		8	80	
Inactive	3	4	12		0	0	
Abandoned	0	0	0		0	0	
Approximate Number of Required Inspections of Initial Program Sites							
Active	0	0	0		0	0	
Inactive	0	0	0		0	0	
Abandoned	0	0	0		0	0	
Inspections Conducted and Approximate Number Required on All Permanent Program Permits and Initial Program Sites							
Total Active	10		40	51		80	88
Total Inactive	3		12	12		0	16
Total Abandoned	0		0	0		0	0
Total	13		52	63		80	104
Exploration Sites with Permits and with Notices							
All Exploration	5			4			0

² The number of required inspections are approximations because part way through the Evaluation Year sites may change "activity status" or become eliminated because final Phase III bond release was approved or the regulatory authority terminated its jurisdiction under the Initial Program. Likewise, as new permits are issued throughout the Evaluation Year, the number of Permanent Program Permits would increase, but only some of the "Inspections Required per Site Annually" would be required for those sites permitted part way through the year. Additionally, some sites may be consolidated into one inspectable unit, thus one inspection may cover multiple sites.

TABLE 11

STATE OR TRIBAL ENFORCEMENT ACTIVITY		
Type of Enforcement Action	Number of Actions ¹	Number of Violations ¹
Notice of Violation	3	3
Failure-to-Abate Cessation Order	0	0
Imminent Harm Cessation Order	0	0

¹ Does not include actions and violations that were vacated.

TABLE 12

LANDS UNSUITABLE ACTIVITY		
Activity	Number	Acres
Petitions Received	0	
Petitions Rejected	0	
Petitions Accepted	0	
Decisions Denying Petition	0	
Decisions Declaring Lands Unsuitable	0	0
Decisions Terminating Unsuitable Designations	0	0

TABLE 13

OSM OVERSIGHT ACTIVITY					
Oversight Inspections and Site Visits					
	Complete		Partial		Total
	Joint	Non-Joint	Joint	Non-Joint	
Oversight Inspections	1	0	4	0	5
Site Visits	Technical Assistance		Other		Total
	0		5		5
Violations Observed by OSM and Citizen Requests for Inspection ¹					
Type of Action					Total number of each action
How many violations were observed by OSM on oversight inspections?					4
Of the violations observed, how many did OSM defer to State action during inspections?					4
Of the violations observed, how many did OSM refer to the State through Ten-Day Notices? ²					0
How many Ten-Day Notices did OSM Issue for observed violations? ³					0
How many Ten-Day Notices did OSM issue to refer citizen requests for inspection?					0
How many Notices of Violation did OSM issue?					0
How many Failure-to-Abate Cessation Orders did OSM issue?					0
How many Imminent Harm Cessation Orders did OSM issue?					0
OSM Action for Delinquent Reporting or Non-Payment of Federal AML Reclamation Fees					
How many Ten-Day Notices for delinquent reporting or non-payment of Federal AML reclamation fees did OSM issue?					0
How many Notices of Violation for delinquent reporting or non-payment of Federal AML reclamation fees did OSM issue?					0
How many Federal Failure-to-Abate Cessation Orders for delinquent reporting or non-payment of Federal AML reclamation fees did OSM issue?					0
¹ This section does not include actions for delinquent reporting or non-payment of Federal AML fees that are reported in the last section of the table. ² Number of violations contained in Ten-Day Notices not including those issued to refer citizen requests for inspection. ³ Number of Ten-Day Notices issued not including those to refer citizen requests for inspection.					

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APPENDIX 2

Comments of “State of Montana” on the Report

Montana Department of Environmental Quality provided comments September 6, 2011 via email on the “Draft Annual Evaluation Report” dated August 15, 2011. Comments pertaining to typographical errors and minor editorial preferences are not reflected in this section but were corrected within the document. The substantial comments are listed below with CFO’s responses.

MT-DEQ’s Comments: MT-DEQ suggested Page 2, first full paragraph, first sentence be revised to read as follows, “Total coal production in calendar year 2010 was 39.6 44.7 million tons, with 867 thousand 4.4 million tons coming from underground sources, as reported by the Montana Department of Labor & Industry, Safety Bureau Revenue.”

CFO’s Response: CFO made the suggested change.

MT-DEQ’s Comments: MT-DEQ also suggested other references to the Montana Department of Labor & Industry, Safety Bureau in the same paragraph indicated above, be revised to properly reference the Montana Department of Revenue.

CFO’s Response: CFO made the suggested change.

MT-DEQ’s Comments: MT-DEQ suggested Page 13, first paragraph, second sentence be revised to read as follows, “One of the staff members attended two of the training courses, and one staff member was an instructor for a mobile computing training course.”

CFO’s Response: CFO made the suggested change.