

OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

Annual Evaluation Summary Report

for the

Regulatory Program

Administered by the State

of

**NEW MEXICO**

for

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 the Secretary of the Interior as meeting the minimum standards specified by SMCRA. This report contains summary information regarding the New Mexico Mining and Minerals Division (MMD) Regulatory Program and the effectiveness of the MMD Regulatory Program 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 for the program elements evaluated during the period are available for review and copying at the Western Region Office (WR), OSM.

## **II. Overview of the New Mexico Coal Mining Industry**

The coal-bearing regions of New Mexico underlie about 25,000 square miles or 20.6 percent of the total area of the State. The majority of the coal-bearing regions lie under Indian lands that are regulated by OSM. MMD regulates mines on the remaining coal-bearing regions.

Most of the coal mined is located in the San Juan Basin in the northwestern part of the State and in the Raton area in the north-central part of the State. New Mexico's coal varies from Pennsylvanian to Paleocene Age. Coal resources in the San Juan Basin are of the late Cretaceous Age; those in the Raton area are of the Paleocene Age. The main coal-bearing strata are the Mesa Verde and Fruitland Formations in the San Juan Basin and the Raton and Vermejo Formations in the Raton area. San Juan Basin coal generally ranges from subbituminous A to high volatile bituminous C. Raton area coal ranges from high volatile A to bituminous B. The demonstrated coal reserve base is 4.65 billion tons, or about 1 percent of the national reserves.

The early Spanish settlers used small amounts of coal several centuries ago. Significant commercial coal mining began in 1861 when the U.S. Army opened a mine in the Carthage field for Fort Craig, New Mexico. By 1889, annual production exceeded one million tons and was used primarily by railroads and lead and copper smelters. Early coal production peaked in 1918 at more than four million tons, stimulated by World War I. Conversion of the railroads to diesel and the smelters and factories to natural gas caused a decline in the use of coal until 1958, when production increased due to the adoption of inexpensive stripping methods and an increased demand for coal by electric utilities in the Southwest.

The climate of the State is arid. The average annual precipitation at the San Juan Mine in the Four Corners area is 9.67 inches. Most of the precipitation is in the form of thundershowers from July to September. Re-vegetation in parts of the San Juan Basin is extremely difficult because of low rainfall amounts and highly erodible soil types.

The MMD Program regulates nine inspectable units. They are: Chevron Mining Inc.'s, Ancho, York Canyon Surface, York Canyon Underground, and McKinley mines; BHP Billiton's La

Plata, San Juan Surface, and San Juan Underground mines; and, Peabody Natural Resources' Lee Ranch and El Segundo surface mines. However, only four (4) mines (San Juan Underground, Lee Ranch, El Segundo and McKinley) produced coal during the evaluation period. The other five (5) are in reclamation and awaiting final bond release.

New Mexico coal production and value have fluctuated within a narrow range over the past twenty years, reaching an all-time high in 2001. Since 2006, production decreased from 14.029 million short tons to 12.058 short tons in 2008. The cause of the decreases was the winding-down of mining at the McKinley Mine, which will cease all production in late 2009. In late June 2008, Lee Ranch Coal Company initiated coal shipments from the newly opened El Segundo Mine. The mine is forecast to produce 102 million short tons of coal over the next 30 years.

The primary customers for New Mexico's coal are four power plants located in the Four Corners region; the Plains Electric Generating Station in Prewitt, the San Juan Generating Station in Waterflow, the Four Corners Generating Plant in Fruitland, and the Cholla Power Plant in Joseph City, Arizona. The proposed 1,500-megawatt Desert Rock Generating Plant that had been in the planning/permitting process has been placed on indefinite hold until further notice.

The Coal Mine Reclamation Program focuses on promoting successful and innovative approaches to reclaiming areas disturbed by coal mining (see photos below). The successful geomorphic reclamation is still being created at the McKinley Mine. San Juan Coal Company has submitted a preliminary application for Phase I (backfilling and grading) of the balance of reclamation not already covered under a Phase I release in 2006 and Phase III (Final release) for the industrial post mining land use (PMLU) area.



The McKinley Mine after reclamation, Area11 Pit. 8/2007  
Source: MMD



The McKinley Mine after reclamation, Area 9 Pit. 9/2009  
Source: MMD



San Juan Mine Reclamation, South Juniper Pit. 12/2009  
Source: MMD

#### MCKINLEY MINE CEASES COAL PRODUCTION

Chevron Mining Inc. ceased producing coal at the McKinley Mine in early December 2009. Located west of Gallup in the San Juan Basin, the McKinley mine was the first large strip mine opened in New Mexico. Over 178 million tons of coal has been mined at the site since 1962. Past customers have included Arizona Public Service Company, the Salt River Project, Arizona Electric Power Company, Tucson Electric Power and Catalyst Paper (formerly known as Abitibi).

The McKinley Mine covers approximately 33,000 acres, consisting of a combination of land owned by Chevron Mining and leased from the Navajo Nation, Navajo allottees, the Bureau of Land Management and the State of New Mexico. McKinley operates under two mining permits: a federal permit for the North area from OSM and a State permit for the South area through MMD. The North permit area is on the Navajo Nation, the South permit area includes Navajo allotments, federal, State and private lands. Active mining operations in the South permit area ceased in 2007.

The last coal train of 2009 was loaded on Saturday, December 12, 2009. An additional 80,000 tons of coal are under contract to be delivered in 2010. About one-third of the McKinley Mine workforce was laid off on December 18, 2009. Approximately 100 employees remain at the mine to focus solely on reclamation activities. Two of the three McKinley draglines were sold, disassembled at the mine, and shipped to their new owners over the last couple of years. The third dragline is being used for reclamation to backfill the final pits on the Navajo Nation portion of the mine.

Chevron Mining Inc. had two applications approved for Phase III (Final) bond release on 1,395 acres at the McKinley Mine.

### **III. Overview of Public Participation Process**

OSM and MMD agreed on topics for the Evaluation Year 2010 Workplan. The Workplan was then sent out for comment to seventeen (17) public and private agencies and interested parties. Albuquerque Area Office (AAO) received responses indicating “no comment” from; the U.S. Forest Service in Albuquerque, NM, the New Mexico State Historic Preservation Officer, and the Natural Resource Conservation Service in Albuquerque, NM. The process resulted in a final State/Federal Workplan being issued on January 20, 2010.

In 2009 New Mexico enacted the [State Tribal Collaboration Act](#) (STCA) mandating “State-Tribal Collaboration and Communication.” The new law requires each Department to consult with an Indian nation, tribe or pueblo, designate a Department Tribal Liaison Officer and perform annual reporting on implementation of the Act.

In December 2009, [Governor Bill Richardson](#) announced the signing and adoption of Tribal Collaboration Communication Policies by every cabinet-level agency, a first in New Mexico’s history. “With the adoption of these policies, all cabinet agencies now have a formal process in place for communication and collaboration with the sovereign tribal governments in New Mexico,” said Governor Richardson. “These policies form a strong foundation to work on a government-to-government basis to better address the needs and concerns of our Native American citizens.”

The Tribal Collaboration Communication Policies were created collaboratively by six State-tribal workgroups. The [Energy, Minerals and Natural Resources Department](#) (EMNRD) worked in a group with the [New Mexico Environment Department](#), the [Office of the State Engineer](#) and the [Department of Game and Fish](#). EMNRD’s effort was led by the Department’s Tribal Liaison, [Arthur “Butch” Blazer](#), who is also the State Forester.

The Department's Policy establishes the principles and framework for effective tribal consultation. The MMD has been working for some time to integrate tribal consultation into the permitting frameworks of both the coal and hard rock mine reclamation programs. MMD has held a number of meetings with tribal officials to discuss specific proposed permitting actions and to hear the concerns the tribes may have. The MMD has developed an internal GIS tool identifying aboriginal use areas derived from documents associated with the Indian Claims Commission Act of 1946.

Government to Government consultation with Native American Tribes is also part of MMD's process to identify and evaluate potential impacts to historic, cultural and sacred properties. Protection of historic and cultural resources is an integral part of the MMD regulatory process. All of MMD's programs integrate archaeological investigations into their baseline data requirements and have specific regulatory provisions for the identification, protection and consideration of effects to cultural resources as part of the permit and project decision-making process.

MMD maintains an internet website that makes a significant amount of information on coal mining and reclamation available to the public. The website includes links to the contact information, regulations and guidelines, public notices, blaster certification application information, an interactive coal mine web map, and mine specific information relating to status, contemporaneous reclamation, compliance history and water quality data.

MMD has also initiated a plan to have all their current paper records scanned and put into an electronic records management system. This will enable the State to provide copies of all current permit information to the public in electronic format.

#### **IV. Major Accomplishments/Issues/Innovations in the New Mexico Program**

The purpose of oversight is to evaluate a State or Tribe's ability to accomplish the goals and responsibilities of SMCRA. OSM and MMD personnel developed a workplan that governed the oversight of the New Mexico Regulatory Program for the 2010 evaluation period. The workplan focused on site-specific topics for the major goals of SMCRA: elimination of off-site impacts and achieving successful reclamation of the post-mining land use. Using the 2010 plan, OSM and MMD investigated a number of variables that influence these two goals. Each element was designed to allow expansion in future years based on the information collected during previous oversight periods. The strategic plan adopted was to use oversight to generate ideas for improving regulatory efficiency, and on-the-ground reclamation.

Reviewing the annual reports submitted by the permittees also enables MMD to collect data on the quality and timeliness of reclamation. The information tabulated by MMD shows that a total nine (9) operations comprising 85,971 acres were under permit in New Mexico as of June 30, 2010. The program manages those permits in accordance with the requirements of SMCRA and the approved New Mexico Regulatory Program.

During the current evaluation year no problems were identified as a result of oversight. Overall, MMD is implementing its approved program consistent with the provisions established in Section 102 of SMCRA.

In October 2009 the U.S. Department of Interior Office of Surface Mining, notified the New Mexico Mining and Minerals Division that the Coal Program Regulation, [19.8 New Mexico Administrative Code \(NMAC\)](#), must be modified in order to include changes made to the counterpart federal regulations at 30 CFR Parts 701, 773, 774, 778, 840, 843, and 847. The [Coal Mine Reclamation Program](#) has prepared amendments to 19.8 Parts 1, 7, 11, 20, 30, 31, 34 and 35 NMAC to update its provisions associated with review of application information, ownership and control, permit suspension and rescissions, transfer assignment or sale of permit rights and alternative enforcement to comply with the Office of Surface Mining's notice. OSM reviewed an informal submittal of the proposed changes to the State rules and determined that they were no less effective than the Federal regulations. The Coal Surface Mining Commission held a public rule making hearing on Thursday, June 24, 2010. The Commission reviewed each proposed rule change during the hearing. The Coal Surface Mining Commission (CSMC) adopted the proposed CSMC rule amendments with minor changes and closed the Public Hearing on the Rule amendments. The revised rules will be published in the State Register in late August, which makes them effective in the State. The proposed rules will be submitted to OSM in September 2010 for review and approval.

#### **V. Success in Achieving the Purposes of SMCRA as Measured by the Number of Observed Off-Site Impacts and the Number of Acres Meeting the Performance Standards at the time of Bond Release.**

To further the concept of reporting the end results, the findings from performance standard evaluations are being collected for a national perspective in terms of the number and extent of observed off-site impacts and the number of acres that have been mined and reclaimed and which meet the bond release requirements for the various phases of reclamation. Individual topic reports are available, at the WR, Denver CO, which provide the details on how the following evaluations and measurements were conducted.

- A. Off-Site Impacts: MMD conducted 83 partial and 36 complete inspections during the EY. All inspection reports filed for those inspections were reviewed by OSM. These inspections resulted in two (2) Notices of Violation (NOV's) containing three (3) separate violations, and no Cessation Orders (CO's). No off-site impacts were noted on any inspections conducted during the EY.
- B. Reclamation Success: MMD approved two applications for a bond release during the evaluation year. On January 11, 2010, McKinley Mine was granted Phase I, Phase II, and Phase III bond release on 877 acres for Areas 4 and 9, which has a postmining land use of grazing land. On February 11, 2010, McKinley was granted an additional 508 acre bond release under Phase I, II, and III at Area 9 for a Traditional Cultural Property (TCP) Area. The released area includes ceremonial sites, gardens and locations for residences.
- C. Customer Service: The McKinley bond release inspections for Areas 4 and nine 9 involved the participation of Indian allottees and interested parties. There were attendants

on behalf of the Bureau of Land Management, Bureau of Indian Affairs, Habitat Management, Inc. employees, signatories to the lease agreement, mine personnel, mine contractors, the OSMRE inspector, and the MMD inspectors. These inspections allowed the participants to observe the reclamation that was completed and ensure that specific requirements required of the operator by the agreement were met.

- D. Inspections: OSM conducted nine oversight inspections during the evaluation year. This included two bond release inspections, five joint partial inspections, one joint complete inspection and one independent complete inspection. Each of the inspections found that the surface coal mining and reclamation operations were in compliance with the approved State program and the permit.

MMD is required to conduct 36 complete inspections and 72 partial inspections for the nine inspectable units in the State. As stated above, MMD conducted 36 complete and 83 partial inspections during the EY. The State met the required inspection frequency.

## VI. OSM Assistance

### **Annual Grant Award**

MMD received \$850,000 in Federal assistance for the operation of the Coal Mine Reclamation Bureau (CMRB), which is the organizational subdivision of MMD responsible for administering the State Regulatory Program. The grant award represents 71.87% of the total program cost. The AML program received \$4,759,634 in Federal assistance.

### **TIPS, Technical Transfer, Technical Assistance and Library Activities**

Three (3) MMD employees took a total of four (4) classes at a cost of approximately \$1000, and one (1) MMD employee taught TIPS classes.

MMD received a Juno GPS unit to assist in their regulatory activities.

There were no NTTP classes taken by MMD employees.

OSM's Technical Librarian filled three (3) reference requests and provided no article reprints to MMD staff members.

## VII. General Oversight Topic Reviews

In addition to the required areas of program review, OSM conducted two National Priority Topic reviews, and OSM and MMD chose one additional element for review, Ash Disposal at the San Juan Mine.

National Priority Topic Area of Review: Approximate Original Contour (AOC)

OSM selected implementation by States of AOC and backfilling and grading provisions as a national priority oversight topic. The OSM WR evaluated the State programs in Alaska, Colorado, Montana, New Mexico, North Dakota, Utah and Wyoming. WR evaluated 20 percent of all permits with mining or reclamation activity 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.

The National Priorities Review AOC group provided the WR AOC 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.

During each State AOC oversight evaluation, the 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 post-mine land use 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 Team reviewed the New Mexico Regulatory Program for implementation of AOC at one mine site. The Team conducted a permit review and field verification visit for the McKinley Mine, an active coal mine.

Currently, there are no formal agreements between OSM and MMD regarding defining and implementing evaluation of AOC; however, MMD has a written method that guides their evaluation of AOC. OSM has reviewed this document and concurs with the State's use of it. MMD has adopted language that specifically identifies geomorphic reclamation principles as part of its guidance in approving post-mining terrain that is reclaimed to AOC. The State had not received any comments or complaints relating to AOC or post-mining land use directed to the State program or OSM through processes outlined in 30 CFR 732.

The State has a process for evaluating revisions and updates to mine permit reclamation plans and conducts on-site inspections to verify that post-mining terrain is reclaimed to AOC as approved in the mine permit reclamation plan. Additionally, the State requires annual reporting of reclamation progress including submission of as-built AOC post mining terrain. The mine permit contained projected post-mine contour maps which were easily comparable to as-built contours. No variances to AOC were granted in the permit that was evaluated by the Team.

The State regularly conducts on-site inspections of backfill and grading actions at the mines that it regulates and the State engineer verifies that any submitted as-built post-mining terrain agrees with the approved original post-mining terrain demonstrated in mine permit reclamation plans. The State reviews backfill and grading data as part of its conditions for Phase 1 bond release.

After conducting a detailed review, OSM found that MMD'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.

The OSM WR Team conducted a field verification of lands reclaimed to AOC at the McKinley Mine in Gallup, New Mexico on March 16<sup>th</sup> 2010. In general, areas at the mine that were evaluated by the Team were reclaimed to AOC. This site had some minor differences in the placement of specific topographic features such as hills; however, the number of post-mine slopes seemed to match the pre-mine condition. Drainages have been reconstructed and blended to non-disturbed land. No significant differences between the as-built terrain and the approved terrain were noted and some unique topographic features were reconstructed to resemble pre-mining conditions. There did not appear to be a systematic problem with the State inspection program for AOC.

#### National Priority Topic Area of Review: *Determination of Required Bond Amounts*

OSM selected State implementation of bond adequacy as a national priority oversight evaluation topic. This was to review the effectiveness of State regulatory authorities in implementing and enforcing their State rules, regulations, and policy and guidance documents related to bonding and to determine the adequacy of the States' bond amount calculations, which set the amount of the bond held by the State. OSM's National Priority Work Plan for conducting the evaluation recommended that OSM WR staff evaluate 20 percent of all coal mines all permits with mining or reclamation activity up to a maximum of five (5) mines per State regulatory program and include reviewing bond adequacy for new and renewed permits, revisions to permits, phased bond releases and bond forfeitures.

The bond adequacy work plan entailed three aspects for evaluating bond adequacy. The first aspect was to determine how each State calculated bond amounts for non-forfeited bonds associated with specific permits. The second aspect was to review permit revisions to determine whether the States are properly evaluating bond adequacy as part of the permit revision application process required by 30 CFR 800.15(d). The third aspect was to evaluate recently-forfeited sites if the State has experienced any bond forfeitures since OSM last conducted an in-depth study of bond forfeitures or the adequacy of bond calculations in each State.

MMD uses the OSM Bonding Handbook methodology to calculate bond amounts and has a set of guidelines (Guidelines for Bond Calculation) which are used for consistent calculation of bond amounts. Those guidelines are based on the OSM Bonding Handbook methodology and were followed during the verification of this bond amount. As of now, the permittee's reclamation cost estimates and the State's bonds amounts are regularly reviewed in Annual Reports, and at mid-term with current topographical maps that show the up-to-date disturbance, which can be compared to the approved plan for mining progress and worst-case disturbance. MMD has not changed its bond cost calculation methodology since the last comprehensive OSM review.

The reclamation plan identifies costs included in the reclamation cost estimate, including structures approved to be left in place as well as, the types of plants to be established after mining is complete. The permittee's reclamation cost estimate includes indirect costs consistent with OSM's Bonding Handbook. The reclamation cost estimate also includes a cost to replace 50 percent of vegetation.

No financial assurance is provided for postmining pollutional discharges as none exist nor are expected. There are no outstanding required program amendments or 30 CFR 732 notifications related to bonding, nor have there been any public inquiries regarding bond adequacy. There have not been any bond forfeitures in over 25 years.

The permittee has posted 4 million dollars more than the total estimated cost of reclamation and has fully bonded the entire site for maximum disturbance, even though only less than half the area is disturbed. The NM Regulatory Program is in compliance with their bond adequacy regulations.

Area of Selected Review: Ash Disposal at the San Juan Mine.

OSM and MMD selected this reclamation success compliance with regulatory requirements to dispose of ash from the San Juan Generating Station on lands affected by surface coal mining at the San Juan Mine.

The San Juan Mine permit was subject to renewal in the fall of 2009. As part of the renewal both MMD and OSM reviewed the permit to identify potential enhancements to the exiting groundwater monitoring plans for the mine so that it could better identify any potential impacts from coal combustion by-products (CCB). When MMD issued the permit renewal they included special condition 3B, which required that the mine submit a revised groundwater monitoring plan that would better characterize any potential impacts from CCBs. In response San Juan Mine submitted a draft plan in February 2010. Both MMD and OSM reviewed the draft monitoring plan and provided comments. On June 15, 2010, as required by Special Condition 3B, the company submitted the revised water monitoring plan. The State determined that submittal was incomplete because it lacked the required permit application fees and the required draft copy of the public notice was not provided. MMD notified the mine of the deficiency and a response is pending at the end of the evaluation year.

MMD is funding two studies to further the State's understanding of hydrologic conditions and groundwater flow patterns in the vicinity of the San Juan Mine, gain a better understanding of the potential for metal leachates from the CCBs, and identify potential options for determining the source of metal contaminants in the groundwater. The first is a study by the U.S. Geological Survey titled Assessment of the Potential for Aqueous Leaching and Transport of Coal Combustion By-Product Metals at the San Juan Mine. The objectives of this study are to determine the potential for metals to leach from CCB's in the mine pits and the potential for groundwater to transport the metals to areas of groundwater use or areas of discharge to surface water. Tasks to be performed to meet the objectives of this study include: 1) using existing data, leach tests, and additional water-quality data, determine the potential for metals to leach from CCB's in the Pinon and Juniper pits of the San Juan Mine and 2) developing a digital groundwater-flow model to determine the potential for groundwater to transport the metals to areas of groundwater use or areas of discharge to surface. The second is a study by the University of New Mexico titled Analysis of Coal Combustion By-Products Disposal Practices at the San Juan Mine: Hydrologic and Water Quality Issues. The overall objectives of this study are to determine the potential for leachates from CCB disposal at the mine for contaminating underlying ground water through a study that will analyze data collected to date, conduct additional leach tests to enable quantitative prediction of contaminate release kinetics, collect data needed to develop a one-dimensional unsaturated water flow model, and develop recommendations for improved ash disposal to assure protection of ground water resources.

The San Juan Coal Company (SJCC) is being sued by the Sierra Club. Sierra Club's claim filed on April 8, 2010, stated that the SJCC has stored and maintained deposits of CCBs in mining pits within SJCC's permit area in a manner that has caused material damage of the hydrologic balance outside SJCC's permit area. Also, they claim SJCC has in course of conducting "surface coal mining operation" within the meaning of SMCRA and the New Mexico Regulatory Program, either introduced water from outside the permit area, brought ground water to the surface on its permit area, or both, and then discharged such waters in a manner that has caused material damage to the hydrologic balance outside SJCC's permit area. Neither the State nor OSM is a party to the suit. As noted above the State has required additional monitoring at the site and is initiating two studies to determine if CB disposal has had an impact on the hydrologic balance. OSM has determined that the State is properly implementing their approved program. OSM will continue to evaluate CCB disposal at the San Juan Mine as an ongoing oversight evaluation topic.

**APPENDIX A**

These tables present data pertinent to mining operations and State and Federal regulatory activities within New Mexico. They also summarize funding provided by OSM and MMD staffing. Unless otherwise specified, the reporting period for the data contained in all tables is July 1, 2009 to June 30, 2010. Additional data used by OSM in its evaluation of MMD's performance is available for review in the evaluation files maintained at AAO.

**NOTE**

The Table 1 figures for New Mexico exclude coal production from Indian Lands.

New Mexico  
 EY 2010, ending June 30, 2010

<b>DRAFT TABLE 1</b>			
<b>Coal Produced for Sale, Transfer, or Use</b> (Millions of Short Tons)			
Period	Surface Mines	Underground Mines	Total
Coal production <sup>A</sup> for entire State:			
Calendar Year			
CY 2007	6.400	6.351	12.751
CY 2008	5.954	6.104	12.058
CY 2009	7.497	6.578	14.075
<p>Coal production as shown in this table is the gross tonnage and includes coal produced during the calendar year (CY) for sale, transfer or use. The coal produced in each CY quarter is reported to OSM during the following quarter by each mining company 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 States or other sources due to varying methods of determining and reporting coal production.</p> <p><sup>A</sup> Provide production information for the latest three full calendar years to include the last full calendar year for which data is available.</p>			

New Mexico  
EY 2010, ending June 30, 2010

DRAFT TABLE 2															
Inspectable Units As of June 30, 2010															
Coal mines and related facilities	Number and Status of Permits								Nbr. of Insp. Units <sup>A</sup>	Permitted Acreage <sup>B</sup> (100's of acres)					
	Active or temporarily inactive		Inactive Phase II bond release		Abandoned		Totals			Federal Lands		State/Private Lands		All Lands	
	IP	PP	IP	PP	IP	PP	IP	PP		IP	PP	IP	PP	Total	
	IP	PP	IP	PP	IP	PP	IP	PP		IP	PP	IP	PP	IP	PP
<b>LANDS FOR WHICH THE STATE IS THE REGULATORY AUTHORITY</b>															
Surface mines	0	5	0	2	0	0	0	7	7	0.0	162.3	0.0	564.4	726.7	
Underground mines	0	1	0	1	0	0	0	2	2	0.0	83.2	0.0	50.1	133.3	
Other facilities	0	0	0	0	0	0	0	0	0	0.0	0.0	0.0	0.0	0.0	
Total	0	6	0	3	0	0	0	9	9	0.0	245.5	0.0	614.5	860.0	
Total number of permits:										9					
Average number of permits per inspectable unit (excluding exploration sites):										1.00					
Average number of acres per inspectable unit (excluding exploration sites):										9,555.67					
Number of exploration permits on State and private lands:							1		On Federal lands <sup>C</sup> :		0				
Number of exploration notices on State and private lands:							0		On Federal lands <sup>C</sup> :		0				
<p><b>IP:</b> Initial regulatory program sites <b>PP:</b> Permanent regulatory program sites</p> <p><sup>A</sup> Inspectable units include multiple permits that have been grouped together as one unit for inspection frequency purposes by some State programs.</p> <p><sup>B</sup> When a single inspectable unit contains both Federal lands and State/Private lands, enter the permitted acreage for each land type in the appropriate category.</p> <p><sup>C</sup> Includes only exploration activities regulated by the State pursuant to a cooperative agreement with OSM or by OSM pursuant to a Federal lands program. Excludes exploration regulated by the Bureau of Land Management.</p>															

New Mexico  
EY 2010, ending June 30, 2010

DRAFT TABLE 3												
State Permitting Activity As of June 30, 2010												
Type of Application	Surface mines			Underground mines			Other facilities			Totals		
	App. Rec.	Issued	Acres	App. Rec.	Issued	Acres <sup>A</sup>	App. Rec.	Issued	Acres	App. Rec.	Issued	Acres
New Permits	0	0	0	0	0	0	0	0	0	0	0	0
Renewals	0	1		0	1		0	0		0	2	
Transfers, sales, and assignments of permit rights	0	0		0	0		0	0		0	0	
Small operator assistance	0	0		0	0		0	0		0	0	
Exploration permits										1	1	
Exploration notices <sup>B</sup>											0	
Revisions (exclusive of incidental boundary revisions)		36			29			0			65	
Revisions (adding acreage but are not incidental boundary revisions)	0	0	0	0	0	0	0	0	0	0	0	0
Incidental boundary revisions	0	0	0	0	0	0	0	0	0	0	0	0
<b>Totals</b>	<b>0</b>	<b>37</b>	<b>0</b>	<b>0</b>	<b>30</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>68</b>	<b>0</b>
OPTIONAL - Number of midterm permit reviews completed that are not reported as revisions:										0		
<sup>A</sup> Includes only the number of acres of proposed surface disturbance.												
<sup>B</sup> State approval not required. Involves removal of less than 250 tons of coal and does not affect lands designated unsuitable for mining.												

**DRAFT**  
**TABLE 4**

**OFF-SITE IMPACTS (excluding bond forfeiture sites)**

RESOURCES AFFECTED	People			Land			Water			Structures		
	Minor	Moderate	Major	Minor	Moderate	Major	Minor	Moderate	Major	Minor	Moderate	Major
DEGREE OF IMPACT	0	0	0	0	0	0	0	0	0	0	0	0
Blasting	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
Hydrology	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
Other	0	0	0	0	0	0	0	0	0	0	0	0
<b>TOTAL</b>	<b>0</b>	<b>0</b>	<b>0</b>									

Total number of inspectable units (excluding bond forfeiture sites): 9

Inspectable units free of off-site impacts: 9

Inspectable units with off-site impacts: 0

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

RESOURCES AFFECTED	People			Land			Water			Structures		
	Minor	Moderate	Major	Minor	Moderate	Major	Minor	Moderate	Major	Minor	Moderate	Major
DEGREE OF IMPACT	0	0	0	0	0	0	0	0	0	0	0	0
Blasting	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
Hydrology	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
Other	0	0	0	0	0	0	0	0	0	0	0	0
<b>TOTAL</b>	<b>0</b>	<b>0</b>	<b>0</b>									

Total number of inspectable units (only bond forfeiture sites): 0

Inspectable units free of off-site impacts: 0

Inspectable units with off-site impacts: 0

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DRAFT TABLE 5				
Annual State Mining and Reclamation Results				
Bond release phase	Applicable performance standard	During this Evaluation Year		
		Total acreage released	Acreage also released under Phase I	Acreage also released under Phase II
A	B	C	D	E
Phase I	- Approximate original contour restored - Topsoil or approved alternative replaced	1,395		
Phase II	- Surface stability - Establishment of vegetation	1,395	1,395	
Phase III	- Post-mining land use/productivity restored - Successful permanent vegetation - Groundwater recharge, quality and quantity restored - Surface water quality and quantity restored	1,395	1,395	1,395
<b>Bonded Acreage<sup>A</sup></b>			<b>Acres during this evaluation year</b>	
Total number of new acres bonded during this evaluation year			0	
Number of acres bonded during this evaluation year that are considered remining, if available			0	
Number of acres where bond was forfeited during this evaluation year			0	
<b>Bonded Acreage Status</b>		<b>Cumulative Acres</b>		
Total number of acres bonded as of the end of last review period (June 30, 2009) <sup>B</sup>		87,366		
Total number of acres bonded as of the end of this review period (June 30, 2010) <sup>B</sup>		85,971		
Sum of acres bonded that are between Phase I bond release and Phase II bond release as of June 30, 2010 <sup>B</sup>		13,097		
Sum of acres bonded that are between Phase II bond release and Phase III bond release as of June 30, 2010 <sup>B</sup>		3,874		
<b>Disturbed Acreage</b>		<b>Acres</b>		
Number of Acres Disturbed during this evaluation year		1,310		
Number of Acres Disturbed at the end of the evaluation year (cumulative)		26,508		
<p><sup>A</sup> Bonded acreage is considered to approximate and represent the number of acres disturbed by surface coal mining and reclamation operations.</p> <p><sup>B</sup> Bonded acres in this category are those that have not received a Phase III or other final bond release (State maintains jurisdiction).</p>				

Brief explanation of columns D & E. The States will enter the total acreage under each of the three phases (column C). The additional columns (D & E & E) will "break-out" the acreage among Phase II and/or Phase III. Bond release under Phase II can be a combination of Phase I and II acreage, and Phase III acreage can be a combination of Phase I, II, and III. See "Instructions for Completion of Specific Tables," Table 5 for example.

**DRAFT  
TABLE 6**

**State Bond Forfeiture Activity**  
(Permanent Program Permits)

Bond Forfeiture Reclamation Activity by SRA	Number of Sites	Dollars	Acres
Sites with bonds forfeited and collected that were unreclaimed as of June 30, 2009 (end of previous evaluation year) <sup>A</sup>	0		0
Sites with bonds forfeited and collected during Evaluation Year 2010 current evaluation year)	0	\$ 0	0
Sites with bonds forfeited and collected that were re-permitted during Evaluation Year 2010 (current evaluation year)	0		0
Sites with bonds forfeited and collected that were reclaimed during Evaluation Year 2010 (current evaluation year)	0		0
Sites with bonds forfeited and collected that were unreclaimed as of June 30, 2010 (end of current evaluation year) <sup>A</sup>	0		0
Sites with bonds forfeited but uncollected as of June 30, 2010 (end of current evaluation year)	0		0
<b>Surety/Other Reclamation (In Lieu of Forfeiture)</b>			
Sites being reclaimed by surety/other party as of June 30, 2009 (end of previous evaluation year) <sup>B</sup>	0		0
Sites where surety/other party agreed to do reclamation during Evaluation Year 2010 (current evaluation year)	0		0
Sites being reclaimed by surety/other party that were re-permitted during Evaluation Year 2010 (current evaluation year)	0		0
Sites with reclamation completed by surety/other party during Evaluation Year 2010 (current evaluation year) <sup>C</sup>	0		0
Sites being reclaimed by surety/other party as of June 30, 2010 (current evaluation year) <sup>B</sup>	0		0

<sup>A</sup> Includes data only for those forfeiture sites not fully reclaimed as of this date

<sup>B</sup> Includes all sites where surety or other party has agreed to complete reclamation and site is not fully reclaimed as of this date

<sup>C</sup> This number also is reported in Table 5 as Phase III bond release has been granted on these sites

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<b>DRAFT TABLE 7</b>	
<b>State Staffing</b> (Full-time equivalents at end of evaluation year)	
Function	EY 2010
Regulatory Program	
Permit Review	3.25
Inspection	3.00
Other (administrative, fiscal, personnel, etc.)	2.00
Regulatory Program Total	8.25
AML Program Total	12.00
<b>Total</b>	<b>20.25</b>

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<b>DRAFT TABLE 8</b>		
<b>Funds Granted To New Mexico BY OSM</b> (During the Current Evaluation Year) (Actual Dollars, Rounded to the Nearest Dollar)		
Type of Funding	Federal Funds Awarded During Current Evaluation Year	Federal Funding as a Percentage of Total Program Costs
Regulatory Funding		
Administration and Enforcement Grant	\$ 850,000	72.00 %
Other Regulatory Funding, if applicable	\$ 0	0.00 %
<b>Subtotal</b>	<b>\$ 850,000</b>	
Small Operator Assistance Program	\$ 0	100 %
Abandoned Mine Land Reclamation Funding <sup>A</sup>	\$ 4,759,634	100 %
<b>Totals</b>	<b>\$ 5,609,634</b>	
<sup>A</sup> Includes funding for AML Grants, the Clean Streams Initiative and the Watershed Cooperative Agreement Program.		

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DRAFT TABLE 9		
State Inspection Activity During Current Evaluation Year		
Inspectable Unit Status	Number of Inspections Conducted	
	Complete	Partial
Active <sup>A</sup>	16	36
Inactive <sup>A</sup>	20	47
Abandoned <sup>A</sup>	0	0
<b>Total</b>	36	83
<b>Exploration</b>	0	0
<sup>A</sup> Use terms as defined by the approved State program.		

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<b>DRAFT TABLE 10</b>		
<b>State Enforcement Activity During Current Evaluation Year</b>		
<b>Type of Enforcement Action</b>	<b>Number of Actions<sup>A</sup></b>	<b>Number of Violations<sup>A</sup></b>
Notice of Violation	2	3
Failure-to-Abate Cessation Order	0	0
Imminent Harm Cessation Order	0	0
<sup>A</sup> Do not include those violations that were vacated.		

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<b>DRAFT TABLE 11</b>		
<b>Lands Unsuitable Activity During Current Evaluation Year</b>		
	Number	Acreage
Number Petitions Received	0	
Number Petitions Accepted	0	
Number Petitions Rejected	0	
Number Decisions Declaring Lands Unsuitable	0	0
Number Decisions Denying Lands Unsuitable	0	0

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DRAFT TABLE 12 Optional	
Post Mining Land Use Acreage (after Phase III bond release)	
Land Use	Acreage Released during this Evaluation Year
Cropland	0
Pasture/Hayland	0
Grazing Land	887
Forest	0
Residential	508
Fish & Wildlife Habitat	0
Developed Water Resources	0
Public Utilities	0
Industrial/Commercial	0
Recreation	0
Other (please specify):	0
<b>Total</b>	<b>1,395</b>