

**Executive Summary for  
North Dakota's Regulatory Program  
Evaluation Year 2010**

The following is a summary of the EY 2010 Oversight Report for the North Dakota Regulatory Program. This report covers the period of July 1, 2009 to June 30, 2010. Overall, North Dakota has a very effective program with no major issues that need corrective action.

**Major Accomplishments/Issues or Innovations in the State Program**

Five inspectable units (BCGH-8801, BNCR-8006, HKHK-8105, BNLS-8109, and ROJK-8701) have achieved final bond release.

NDPSC has developed a Geographic Information System (GIS) to track mining and reclamation activities. Data collected and entered into the GIS includes recent aerial photographs, permit boundaries, roads, stockpile locations, ponds, and related features. A number of bond release tracts are also now available in digital format. This information is made available to field personnel through the use of tablet computers equipped with Global Positioning System (GPS) receivers, thus allowing for greatly improved accuracy of tracking and recording activities during inspections.

**Two Off-Site impacts were identified in North Dakota.**

NOV-1001 at BNI Center Mine: A heavy rain event caused a 60 inch culvert to erode and a small amount of sediment was deposited downstream and off-site. The integrity of an overlying road was also in question. The culvert and road have been repaired. This appears to be an isolated event and no systematic problems were identified.

NOV-1002 at Dakota Westmoreland Beulah Mine: Improper maintenance of a haul road combined with a major rain event, caused a small amount of sediment to be deposited on undisturbed areas, including an area beyond the permit boundary. The sediment has been removed from the affected area, disturbed areas were reseeded, a silt fence was repaired and additional silt fences were installed. A company plan for berm maintenance was also initiated.

**Customer Service**

One verbal complaint was received near the end of EY 2009, and the State investigation was completed during EY 2010. The complainant had concerns that coal outcrop drilling by the mine operator had affected his water well. The NDPSC investigation concluded that the drilling did not affect the water well.

A written complaint was received on June 1, 2010. A TDN was issued by CFO to transmit citizen's complaint ID # CC10-010-001 to the State. The complainant alleges that mining activities have contributed to flooding and crop damage on his farm which is located adjacent to the BNI Center Mine. The NDPSC investigation concluded a possible link between mining activities and increased head pressure in the formations that contribute to a seep on the complainant's property. NDPSC recommended the removal of Pond 9-2. BNI has agreed to comply with this action and no further OSM involvement should be required. The final action will be reported in the EY 2011 oversight report.

### **Reclamation Success/Contemporaneous Reclamation**

In EY 2010, 1,227 acres were reclaimed (soiled and seeded), and 1,965 acres were disturbed State-wide. Cumulatively, 44,472 acres have been reclaimed and 66,075 acres have been disturbed. The ratio of reclaimed vs. disturbed has steadily risen from 0.56 in 1999 to 0.67 in 2010, which reflects favorably on the North Dakota program. The following are cumulative bond release acres:

16,163 acres or 24% of disturbed acres have received Phase I bond release.  
11,807 acres or 18% received Phase II bond release.  
11,742 acres or 18% received Phase III bond release.

### **OSMRE Assistance**

Five reclamation staff and two AML staff attended a total of seven NNTP classes. Two reclamation staff and one AML staff attended a total of three TIPs classes.

### **State Program Amendments**

SAT#ND-051-FOR, which addresses rule and statutory changes that allow the revegetation responsibility period to be reduced from ten to five years for eligible lands that are re-mined was under review by OSM, during EY 2010. The final rule Federal Register document approving this amendment was sent August 13, 2010. This will be noted in the EY 2011 oversight report.

### **Inspection & Enforcement**

NDPSC conducted 80 complete and 443 partial inspections on all active mines in North Dakota. They also conducted 30 complete and 57 partial inspections on all inactive mines in North Dakota. CFO conducted three complete and ten partial oversight inspections, including one independent inspection. NDPSC issued two NOV's and no CO's during this evaluation period. CFO issued one TDN to transmit citizen's complaint ID # CC10-010-001.

## **National Priority Topics**

Excerpts from the National reports on Approximate Original Contour (AOC) and Bond Adequacy Findings are included in the EY 2010 oversight report. Both reports found no significant problems with the way the North Dakota administers AOC or bonding.

## **REG-8 Tables**

Table 1: 29.933 Mst coal produced

Table 2: 26 inspectable units at the end of the evaluation period

Table 3: 1 permit renewal issued

Table 4: 31 inspectable units at the beginning of the year (5 achieved Phase III bond release)

Table 5: 1,965 acres disturbed in EY 2010, 66,075 cumulative acres disturbed, 104,977 cumulative acres bonded, 2,836 acres achieved Phase I bond release, 2,221 acres achieved Phase II bond release, and 2,370 acres achieved Phase III bond release

Table 6: No State Bond Forfeiture Activity

Table 7: 8.5 regulatory FTEs, 4.55 AML FTEs

Table 8: \$4,297,440 in total federal funding

Table 9: A total 110 complete inspections and 500 partial inspections were conducted by NDPSC, thus exceeding requirements.

Table 10: 2 NOV's were issued

Table 11: No Lands Unsuitable Activity

Table 12: 2,370 total acres were released from Phase III bond, with 1,072 acres released as cropland, 149 acres pasture/hayland, 354 acres grazing land, 36 acres forest, 13 acres developed water resources, 73 acres industrial/commercial, 640 acres undisturbed land, and 33 acres of public roads and associated rights of way.