

OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

**Annual Evaluation Report
for the
Regulatory Program
Administered by the Public Service Commission
of**

NORTH DAKOTA

for

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

**Prepared by
Casper Field Office
September 2011**



EXECUTIVE SUMMARY

North Dakota's Regulatory Program

Evaluation Year 2011

The following is a summary of the EY 2011 Oversight Report for the North Dakota Regulatory Program. This report covers the period of July 1, 2010 to June 30, 2011. Overall, North Dakota has a very effective program with no major issues that need corrective action.

Overview of Public Participation and Outreach Efforts

OSM's programmatic reviews of the North Dakota program indicate that the NDPSC is adhering to the State's policies and procedures regarding opportunities for public participation in all phases of their reclamation program. The Reclamation Division provided the required notices to landowners and other interested parties for significant revision applications, renewals and bond release applications. Staff also encourages participation in bond release inspections by the landowners and county officials.

NDPSC held an informal conference, requested by Plains Justice and its constituents, in Dickinson ND, regarding permit approval at the South Heart Mine. An administrative law judge presided over the conference and will make a ruling on the request once NDPSC deems the permit application is complete.

Major Accomplishments and Innovations

North Dakota Mines achieved final bond release for a total of 1407 acres. As a result, permit CCGH-8003, at the Glenharold Mine has achieved all final bond release (see Appendix 1, Table 6), leaving BCGH-8204 as the only remaining permit at the mine.

Off-Site Impacts

During EY 2011, North Dakota reported that twenty five out of twenty six (96%) inspectable units were free of off-site impacts. One minor off-site impact of a hydrologic nature was identified during the reporting period, resulting in the issuance of NOV-1003. Appropriate action was taken by the NDPSC and the operator to correct the situation. This appears to be an isolated event and no systematic problems were identified.

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:

- 16,364 acres or 24% of disturbed acres received Phase I bond release.
- 11,928 acres or 18% of disturbed acres received Phase II bond release.
- 11,915 acres or 18% of disturbed acres received Phase III 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 1,153 acres were permanently reclaimed (soiled/seeded/planted in preparation for final bond release), and 1,654 acres were disturbed State-wide. Cumulatively, 44,390 acres have been reclaimed and 67,155 acres have been disturbed. The percentage of reclaimed vs. disturbed has steadily risen from 56% in 1999 to 66% in 2011, which reflects favorably on the North Dakota program.

Customer Service

As part of OSM's evaluation of Customer Service, CFO chose to evaluate the State's citizen complaint process for this report. A single citizen's complaint was responded to during EY 2011. CFO determined that the State response was appropriate, timely, and scientifically sound.

General Oversight and Topic Specific Reviews

State Program Amendments

The Final Rule for State Program Amendment SATS # ND-051-FOR has been approved, effective December 27, 2010. This amendment addresses rule and statutory changes that allow the revegetation responsibility period to be reduced from ten years to five years for eligible lands that are re-mined.

Also, on October 2, 2009, OSM notified NDPSC that, under 30 CFR 732.17(d), certain North Dakota provisions pertaining to ownership and control and the use of OSM's Applicant Violator System need to be revised. NDPSC has indicated that they intend to submit a draft set of proposed rule changes. NDPSC anticipates these draft rule changes will be available for informal review early in 2012.

Oversight Inspections

The Casper Field Office conducted two complete oversight inspections and six partial oversight inspections of coal mining operations in North Dakota during this evaluation year. One of the complete inspections was an unannounced independent inspection. CFO also conducted a sight visit to investigate the State's proposed resolution to citizen's complaint ID # CC10-010-001. No TDNs or COs were issued by CFO, which reflects favorably on the State program.

Vegetation Diversity on Reclaimed Lands

This study was based on field observations made by both State and OSM personnel during regularly scheduled oversight visits and field inspections. The purpose of this study was to observe and identify any general trends in diversity of vegetation on reclaimed mine lands in North Dakota. Specific grazing, husbandry and management practices of reclaimed lands exhibiting successful diversity were examined, considering variables such as site, soil thickness, seed mix, precipitation, noxious weed control, and duration of vegetation establishment.

Agricultural Productivity on Reclaimed Lands

OSM and NDPSC evaluated production data of agricultural crops on reclaimed mine lands to determine if production levels are adequate for meeting final bond release criteria, as defined by State program rules. Available production data was submitted to NDPSC by mine operators from a representative sample of active coal mine permits.

This investigation included a review of specific State regulatory requirements for Final bond release of agricultural land. These were compared to Federal requirements as described in 30CFR. Bond Release # 3, at the Coteau Freedom Mine, Permit NACT-9101, was spot checked for adherence to State and Federal standards. All reclaimed cropland successfully achieved State requirements for successful revegetation. All productivity standards were successfully met. Methods of using cropland reference area standards, NRCS cropland technical standards, and climactic correction factors are all technically sound. The North Dakota Program rules do an excellent job of effectively measuring agricultural productivity on reclaimed lands. No issues of concern were found.

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 \$798,743 in Federal funds for North Dakota's Administration and Enforcement Grant.

OSM awarded \$3,425,951 in Federal funds for North Dakota's AML Grant.

OSM Technical Assistance

During the evaluation year two Reclamation Division staff attended a total of three TIPS training courses. No staff members participated as TIPS instructors.

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(Cover photo: The BNI Center Mine on June 8th, 2011. Photo shows active mining with the dragline at the far bottom right, and active re-grading of spoil piles at the top left of the photo. Note how the horizon is dominated by newly erected windmills.

I. Introduction

The Surface Mining Control and Reclamation Act of 1977 (SMCRA) created the Office of Surface Mining Reclamation and Enforcement (OSM) in the Department of the Interior. SMCRA provides authority to OSM to oversee the implementation of and provide Federal funding for State regulatory programs that have been approved by OSM as meeting the minimum standards specified by SMCRA. This report contains summary information regarding the North Dakota program and the effectiveness of the North Dakota 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), or on the following OSM website;

<http://www.wrcc.osmre.gov/programs/oversight/NorthDakota.shtm>

Contact person: Jeff Fleischman, Director
Email: jfleischman@osmre.gov
Phone: (307) 261-6550
Casper Field Office
150 East B St., Room 1018
Casper, WY 82602

The following is list of acronyms used in this report:

AOC	Approximate Original Contour
CFO	OSM's Casper Field Office
CO	Cessation Order
EY	Evaluation Year
FAM	OSM's Federal Assistance Manual
GIS	Geographic Information System
GPS	Global Positioning System
NDCC	North Dakota Century Code (Law)
NDAC	North Dakota Administrative Code (Rules)
NDPSC	North Dakota Public Service Commission
NOV	Notice of Violation
NTTP	National Technical Training Program
OSM	Office of Surface Mining Reclamation and Enforcement
REG-8	OSM Directive REG-8
SMCRA	Surface Mining Control and Reclamation Act of 1977
TDN	Ten-Day Notice
TIPS	Technical Innovation and Professional Services
WR	OSM Western Region

II. Overview of the Coal Mining Industry in North Dakota

The coalfields of North Dakota are located in the Williston Basin, which is part of the Great Plains Coal Province. They underlie approximately 40 percent of the State's surface area. Most of the coal is produced commercially from two mining districts located in the western part of the State: (1) Beulah-Zap and (2) Hagel. Recoverable coal reserves in North Dakota are generally classified as lignite, which is characterized by low heating value (6,500 BTU), average high moisture content (40 percent) and low sulfur content (less than 1.0 percent). The mineable beds in the Williston Basin vary in thickness from three to 30 feet; economic stripping ratios range from 1.5:1 to 11:1. All active coal mines in North Dakota are currently large-scale surface mines that provide for mine-mouth or regional electrical generation facilities and a nearby coal gasification facility.

The first commercial mines in North Dakota opened in Morton County in 1873. As the railroad developed across the State, demand for coal increased and was supplied by underground mines. North Dakota was one of the first states to shift from underground to large-scale commercial surface mining. By 1927, 40 percent of the State's production was by surface mining methods, compared to 2 percent for the nation. By 1959, eighty six percent of North Dakota's coal production was from surface mines, and since 1966, the State's total production has been derived from this mining method. In 1884, North Dakota produced 35 thousand tons of lignite; in 2011, it produced 28.85 million tons (Appendix 1, Table 1) using modern surface mining methods and equipment.

Coal mining in North Dakota is concentrated around the western half of the State. This area consists of approximately 28,000 square miles, and has an estimated total resource of 350 billion tons of coal, or about two-thirds of the total lignite reserves of the United States. North Dakota has a demonstrated recoverable coal reserve base of 25 billion tons. North Dakota enacted its first reclamation law in 1969 and major revisions to that law followed in 1973 and 1975. A new law was enacted by North Dakota in 1979 that is consistent with SMCRA.

In 2010, North Dakota mines provided direct and indirect employment for approximately 26,900 people. The coal industry's substantial impact on the State's population and economy has secondary in-state multiplier effects. Most of the State's coal production also fuels electric power generation plants within North Dakota that supply most of the State's electrical needs. In 2011, estimated tax revenues from coal mining in North Dakota should be more than \$91 million.

A total of 104,248 acres are currently permitted and bonded in North Dakota (Appendix 1, Tables 2 and 6). 67,071 of those permitted acres have been disturbed by mining operations, and 44,306 of those acres have been backfilled, graded, topsoiled and permanently seeded to final reclamation standards (Chart 1).

III. Overview of Public Participation and Outreach Efforts

The North Dakota coal reclamation and enforcement program allows for and encourages public input and participation throughout the program. The North Dakota Public Service Commission (NDPSC) is the State agency charged with the responsibility for the permitting and regulation of the coal mining industry in North Dakota. OSM's programmatic reviews of the North Dakota program indicate that the NDPSC is adhering to the State's policies and procedures regarding opportunities for public participation in all phases of their reclamation program.

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 North Dakota's Performance Agreement relating to OSM's oversight of North Dakota's program on the following OSM website: <http://www.wrcc.osmre.gov/programs/oversight/NorthDakota.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. Partially in response to comments submitted by the Dakota Resource Council on August 9, 2010, CFO chose to include in this report, topic specific evaluations of contemporaneous reclamation, agricultural productivity on reclaimed lands and vegetative diversity on reclaimed lands.

Sharing of information with the public is highly encouraged by both OSM and the State. The public may include a variety of stakeholders, including, but not limited to; citizenry at large, other Federal, State, or Local agencies, or environmental groups. NDPSC commonly hosts, or participates in a variety of public meetings, conferences, and workshops.

Staff from NDPSC, as well as staff from OSM's Western Region, Technology Management Division (TMD) participated on the Bond Release Workshop Committee coordinating a day long workshop during the meeting that featured speakers and a panel discussion focusing presentations on *Challenges of Bond Release for Western U.S. Coal Mining*.

OSM and NDPSC staff invited North Dakota coal operators to meet on June 7th, 2011 to discuss current OSM efforts to improve data collection and reporting. Representatives from each of the operating North Dakota coal mines attended. A short presentation was given, demonstrating the importance of continued cooperative efforts between the operators, the State and OSM.

OSM was a co-sponsor of the 2011, 28th Annual Meeting of the American Society of Mining and Reclamation. The event was hosted by the NDPSC and held at the Ramkota Inn in Bismarck, ND from June 11th to June 16th, 2011. Three NDPSC

and one OSM staff served on the ASMR Program Committee. Three NDPSC staff and two OSM staff, including the CFO Director, gave presentations at the event.

As part of the North Dakota program, citizens are allowed to request informal conferences regarding actions by the NDPSC. In the spring of 2011, several citizens groups represented by Plains Justice requested a conference regarding the South Heart Coal Mine permit application. The NDPSC granted the informal conference, and the conference was held in Dickinson, ND on June 28th. Plains Justice and its constituents argued against a permit approval regarding the South Heart Mine. An administrative law judge presided over the conference and will make a ruling on the request once NDPSC deems the permit application is complete.

IV. Major Accomplishments and Innovations

The NDPSC continues to administer an efficient and successful coal regulatory program as set forth in Section 102 of SMCRA. North Dakota's permanent regulatory program has been in-place since 1980.

North Dakota's regulatory program is handled by a relatively small number of staff (Appendix 1, Table 8) considering the amount of land mined and reclaimed each year. The NDPSC Reclamation Division staff members that review permit and revision applications also carry out the compliance inspections and evaluate bond release applications. This allows staff to remain very familiar with the ongoing field operations and approved mining and reclamation plans. The NDPSC has a very good working relationship with their customers that include industry, landowners, citizen groups, and other governmental agencies, including OSM. The Reclamation Division carries out its duties using the appropriate technical expertise and with a high level of professionalism.

The Reclamation Division continues to work closely with mining companies and encourages the submittal of permit related applications in an electronic format. All four active permits for the Falkirk Mine as well as two large active permits for the Freedom Mine and one active permit for the Beulah Mine are in an electronic format. The Center Mine also converted Permit BNCR-9702 from a paper copy to an electronic version. Much of the monitoring data submitted by the mining companies is now submitted in an electronic format. Most incoming correspondence is also scanned and filed electronically using a structure that is very similar to the paper filing system.

The Reclamation Division has a Geographic Information System (GIS) to track mining and reclamation activities and conduct technical analysis of plans and data provided by the mining companies. Information entered into the GIS for several mines include recent high altitude air photos, permit boundaries, roads, stockpile locations, ponds and related features. Information for many final bond release

tracts also has been entered. More information is being added as time allows. Much of this information is being loaded onto tablet computers equipped with Global Positioning System (GPS) receivers that inspectors use when carrying out mine inspections. This allows for accurate tracking and recording of activities during mine inspections.

Development of the GIS is an ongoing and dynamic project. OSM's Office of Technology Transfer in the Western Region (WR) and Technical Innovation and Professional Services (TIPS) has provided very valuable assistance with the GIS and mobile computing initiatives. The Reclamation Division has been able to move forward with these initiatives while ensuring the necessary mine inspections are conducted and timely action is taken on applications.

During the course of this evaluation year, North Dakota Mines achieved final bond release for a total of 1407 acres. This includes 270 acres of Administrative release for previously undisturbed lands, 771 acres of disturbed lands at the Glenharold Mine, and 366 acres of disturbed land at the Center Mine. The Glenharold Mine consists of permits CCGH-8003 and BCGH-8204. During EY2011, permit CCGH-8003 at the Glenharold Mine achieved all final bond release. (See Appendix 1, Table 6), leaving BCGH-8204 as the only remaining permit at the mine.

The North Dakota Public Service Commission continues to conduct frequent and thorough inspections. North Dakota conducted 83 complete inspections and 458 partial inspections on all active mine sites during this evaluation year. North Dakota also conducted 23 complete inspections and 60 partial inspections on all inactive mine sites during this evaluation year. They have exceeded the number of inspections required on all mine sites during this evaluation year. The required number of State inspections was calculated using 26 inspectable units.

Overall, North Dakota has an excellent coal regulatory program. NDPSC staff continues to implement the program in a highly professional, cooperative, and fair manner. The Reclamation Division uses new technology to become more efficient and make information more readily available to the public. The NDPSC has the necessary technical expertise for carrying out its functions to ensure that all of the requirements of SMCRA are met.

V. Success in Achieving the Purposes of SMCRA

OSM Directive REG-8 *Oversight of State Regulatory Programs* (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 NDPSC 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 contemporaneous reclamation by comparing 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. The State program must regulate or control either the mining or reclamation activity, or the resulting off-site impact. 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 NDPSC and CFO developed an oversight work plan to evaluate and document the effectiveness of the North Dakota program in protecting the environment and the public from negative off-site impacts resulting from mining operations in North Dakota.

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 NDPSC and CFO.

During EY 2011, North Dakota reported that twenty five out of twenty six (96%) inspectable units were free of off-site impacts. One minor off-site impact of a hydrologic nature was identified during the reporting period (see Appendix 1, Table 5). The off-site impact occurred at the Freedom Mine, and was noted during a June 30th, 2010 inspection. The outlet of a discharge pipe was located outside of the permit boundary and did not possess an energy dissipater. This created a small area of erosion. The State issued NOV-1003 (Notice of Violation) on July 8th, 2011 for conducting mining related activities outside of the permit boundary and for failure to use an energy dissipater to reduce erosion. The next inspection occurred on July 15th, 2011, and at that time, the discharge pipe had been moved inside the permit boundary and had been fitted with an energy dissipater. This seems to be an isolated event and no systematic problems were identified.

More detailed information concerning this topic is available in a topic specific oversight report available in the annual evaluation file. The evaluation file is available for review at the Casper Field Office or online at the following OSM website: <http://www.wrcc.osmre.gov/programs/oversight/NorthDakota.shtm>.

B. Reclamation Success

Reclamation success may be determined based on the number of acres that meet the bond release standards. In addition to the nationwide information reported, Field Offices and States may conduct specific evaluations. Table 6 of Appendix 1 catalogues the acreage of land released from bond for Phase I, II, and III. The information collected to measure Reclamation Success is listed below for the following areas:

a. Land form/Approximate Original Contour (AOC)

MEASUREMENT: AOC achievement will be measured by the acres of Phase I bond released. Approximately 24% (16,364 acres) of the disturbed lands (67,071 acres) have received Phase I Bond Release.

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. Approximately 18% (11,928 acres) of the disturbed lands (67,071 acres) have received Phase II Bond Release.

MEASUREMENT: Vegetation stability will be measured by acres of Phase II bond release. Approximately 18% (11,928 acres) of the disturbed lands (67,071 acres) have received Phase II Bond Release.

MEASUREMENT: Achievement of postmining land uses will be measured by acres of Phase III bond release. Approximately 18% (11,915 acres) of the disturbed lands (67,071 acres) have received Phase III Bond Release.

MEASUREMENT: Successful revegetation will be measured by acres of Phase III bond release. Approximately 18% (11,915 acres) of the disturbed lands (67,071 acres) have received Phase III Bond Release.

c. Hydrologic Reclamation

MEASUREMENT: Achievement of surface water quality and quantity restoration can be measured by acres of Phase III bond release. Approximately 18% (11,915 acres) of the disturbed lands (67,071 acres) have received Phase III Bond Release.

MEASUREMENT: Achievement of groundwater recharge capacity and ground water quantity and quality restoration can be measured by acres of Phase III bond release. Approximately 18% (11,915 acres) of the disturbed lands (67,071 acres) have received Phase III 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. Contemporaneous reclamation specifically refers to the timeliness that reclamation is occurring. 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 large blocks of land have completed both mining and reclamation activities. As a result, the number of acres released from Phase III bond is 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.

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.

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

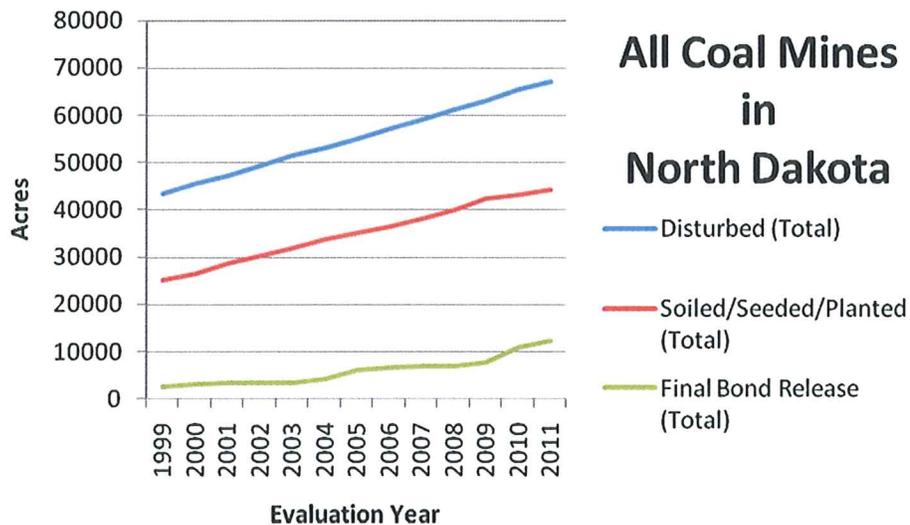
The following graph and chart are used to show the rate at which lands are being permanently reclaimed (soiled/seeded/planted in preparation for final bond release) compared to the rate of disturbance.

Chart 1
North Dakota Reclamation Summary

EVAL. YEAR	ACRES DISTURBED	Cumulative Acres Dist.	ACRES RECLAIMED (Soiled/Seeded/Planted)	Cumulative Acres Recl.	RATIO OF RECLAM VS DISTURB	Cumulative RATIO OF RECLAM VS DISTURB
1999	1,725	43,484	2,270	24,979	1.32	0.58
2000	1,913	45,397	1,518	26,497	0.79	0.58
2001	1,738	47,135	1,998	28,495	1.15	0.61
2002	2,036	49,171	1,610	30,105	0.79	0.61
2003	2,242	51,413	1,678	31,783	0.75	0.62
2004	1,772	53,185	1,775	33,558	1.00	0.63
2005	1,796	54,981	1,458	35,016	0.81	0.64
2006	2,004	56,985	1,463	36,479	0.73	0.64
2007	2,085	59,070	1,787	38,046	0.86	0.64
2008	2,045	61,115	1,934	39,980	0.95	0.65
2009	1,873	62,988	2,322	42,302	1.24	0.67
2010	2,429	65,417	851	43,153	0.35	0.66
2011	1,654	67,071	1,153	44,306	0.70	0.66

Source of data: ND-PSC

Chart 1 (above) provides the actual acres disturbed and reclaimed (soiled/seeded/planted) annually for all mines. A notable drop in the rate of reclamation occurred during EY 2010, and has rebounded slightly during EY 2011. The cumulative reclamation to disturbance ratio has remained relatively steady and is currently 0.66, as indicated on the chart. This ratio indicates that 66 percent of the cumulative acres disturbed in North Dakota have been reclaimed to the point of being backfilled, graded and seeded.



Source of data: ND-PSC

Graph 1 (above) plots the number of acres disturbed, acres reclaimed (defined as soiled/seeded/planted) and acres of Final bond release. Ideally, the rate of reclamation should parallel the rate of disturbance.

The CFO feels that reclamation in North Dakota is occurring as contemporaneously as practicable. The past two years have seen a significant increase in the development of new mine areas, and a resulting delay in final reclamation. This can be seen as a predictable aspect of the mining process. 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 AOC requirements. This can cause a short term delay in final reclamation. However, as the spoil piles are regraded 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 regrade 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 respreading and seeding. While reclamation activities do not yet seem to have caught up with the increase in mine development that began during EY2010, they are on the rise. The CFO will continue to report on contemporaneous reclamation as a subset of reclamation success and inventory the status of disturbed lands for future reports.

More detailed information concerning this topic is available in a topic specific oversight report available in the annual evaluation file. The evaluation file is available for review at the Casper Field Office or online at the following OSM website: <http://www.wrcc.osmre.gov/programs/oversight/NorthDakota.shtm>.

C. Customer Service

One of the requirements of a regulatory authority for reclamation programs implemented under SMCRA is to develop and encourage open communication not only with the industry being regulated, but also the citizenry and communities in the coalfields around the mines. To accomplish this requirement, SMCRA programs must involve the public in all phases of coal mine permitting. North Dakota's program provides for public involvement of permitting actions when a new application is received, when a permit is renewed, when any significant permit revision is proposed and when a phase of reclamation is completed to the point of requesting bond release from a tract of reclaimed land. The provisions of the North Dakota program that extensively describe these procedures can be found at sections NDCC 38-14.1-18 (North Dakota Century Code) and NDAC 69-05.2-10 and 69-05.2-12 (North Dakota Administrative Code).

The Reclamation Division provided the required notices to landowners and other interested parties for significant revision applications, renewals and bond release

applications. Staff encourages participation in bond release inspections by the landowners and county officials.

Of the many customer service activities that could be used to evaluate customer satisfaction with the State Regulatory Program, the State's citizen complaint process was chosen for evaluation in this report. Only one citizen complaint was responded to during EY 2011. The following is a summary of the complaint and the State response.

A written complaint was received by OSM on June 1, 2010. Ten-day notice # X10-010-448-001 was issued to the NDPSC to transmit citizen complaint ID # CC10-010-001. This complaint alleges that mining activities have contributed to flooding and crop damage on an adjacent farm. NDPSC conducted a six week review of pumping and monitoring well records. NDPSC determined that water contained by a nearby sediment pond was the likely cause of seeps on the complainant's property. The mining company has agreed to remove the pond in question as expediently as possible. The large size of the pond required that approval be obtained from the Mine Safety and Health Administration (MSHA). The company had originally intended to remove the pond during the fall of 2010 or spring of 2011. An exceptionally wet year has inundated the area with heavy snow and rain, resulting in very saturated soil conditions. The saturated soil conditions have prevented the company from accessing the site with heavy equipment. At the time of this report, the pond has not yet been removed. CFO has determined that the State response was appropriate, timely and scientifically sound.

The Reclamation Division responded to numerous requests for information from landowners, mining companies, government agencies and others. A permit application for a proposed new mine (the South Heart Application) is still currently under review by the NDPSC. An informal conference was held regarding this application near the end of the evaluation year. This event was attended by approximately 100 people.

NDPSC 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 North Dakota regulatory program, reclamation, or government activities.

In addition to the services provided to the general public, the regulatory 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.

More detailed information concerning this topic is available in a topic specific oversight report available in the annual evaluation file. The evaluation file is available for review at the Casper Field Office or online at the following OSM website: <http://www.wrcc.osmre.gov/programs/oversight/NorthDakota.shtm>.

VI. National Priority and General Oversight Topic Reviews

No National Priority Topics were selected for this evaluation year.

General Oversight Topics include:

A. State Program Amendments

Overall, North Dakota's program is consistent with SMCRA and the Federal regulations. The Final Rule for State Program Amendment SATS # ND-051-FOR has been approved, effective December 27, 2010. This amendment addresses rule and statutory changes that allow the revegetation responsibility period to be reduced from ten years to five years for eligible lands that are re-mined.

Also, on October 2, 2009, OSM notified NDPSC that, under 30 CFR 732.17(d), certain North Dakota provisions pertaining to ownership and control and the use of OSM's Applicant Violator System need to be revised. NDPSC has indicated that they intent to submit a draft set of proposed rule changes. NDPSC anticipates these draft rule changes will be available for informal review early in 2012.

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

B. Oversight Inspections

The Casper Field Office conducted two complete oversight inspections and six partial oversight inspections of coal mining operations in North Dakota during this evaluation year. One of the complete inspections was an unannounced independent inspection. CFO also conducted a site visit to investigate the State's proposed resolution to citizen's complaint ID # CC10-010-001. No TDNs or CO were issued during EY2011.

NDPSC and OSM personnel participated in an annual overflight of the four major mines, and various AML sites. Photographs and a GPS tracklog were taken to document current conditions at each mine.

C. Vegetation Diversity on Reclaimed Lands

This study was based on field observations made by both State and OSM personnel, during regularly scheduled oversight visits and field inspections. The purpose of this study was to observe and identify any general trends in diversity of vegetation on reclaimed mine lands in North Dakota. Specific grazing, husbandry and management practices of reclaimed lands exhibiting successful diversity were examined, considering variables such as site characteristics, soil thickness, seed mix, precipitation, noxious weed control, and duration of vegetation establishment.

Field investigations took place during inspections at the Coteau Freedom Mine on Sept. 15, 2010 and at the Glenharold Mine on Sept. 16th, 2010. At the Freedom Mine, vegetative growth was examined at several sites with seeding dates ranging from 1999 to the present. The occurrence of invasive smooth brome grass was a common problem that has been successfully dealt with through a variety of seeding, grazing and husbandry practices. Overall, revegetation efforts seem to be very well established. Both cover and diversity are apparent, even in freshly re-seeded plots. On the occasion that normal management techniques were unsuccessful, some plots were sprayed with Atrazine and reseeded. Techniques such as; drilling, no tilling, mulching, utilization of fabric and rock pickers are yielding positive results. At the Glenharold Mine, revegetation efforts also look to be very well established, with almost every plot displaying good cover and species diversity. A recurring issue at Glenharold is the establishment of leafy spurge, which can dominate an area, decreasing species diversity. Staff at the mine is successfully dealing with leafy spurge by using a species of beetle that feeds on the plant as a natural biological control.

More detailed information concerning this topic is available in a topic specific oversight report available in the annual evaluation file. The evaluation file is available for review at the Casper Field Office or online at the following OSM website: <http://www.wrcc.osmre.gov/programs/oversight/NorthDakota.shtm>.

D. Agricultural Productivity on Reclaimed Lands

OSM and NDPSC evaluated production data of agricultural crops on reclaimed mine lands to determine if production levels are adequate for meeting final bond release criteria, as defined by State program rules. Available production data was submitted to NDPSC by mine operators from a representative sample of active coal mine permits. This investigation included a review of specific State regulatory requirements for Final bond release of agricultural land. These were compared to Federal requirements as described in 30CFR. A spot check of North Dakota permits that have undergone Final bond release of cropland was conducted to ensure applicable standards are being adhered to.

Bond Release # 3, at the Coteau Freedom Mine, Permit NACT-9101, was spot checked for adherence to State and Federal standards. All reclaimed cropland successfully achieved State requirements for successful revegetation. All productivity standards were

successfully met. Methods of using cropland reference area standards, NRCS cropland technical standards, and climactic correction factors are all technically sound. More information on NDPSC standards and methods for evaluating revegetation success can be found in the publication, "Standards for Evaluation of Revegetation Success and Recommended Procedures for Pre and Postmining Vegetation Assessments".

More detailed information concerning this topic is available in a topic specific oversight report available in the annual evaluation file. The evaluation file is available for review at the Casper Field Office or online at the following OSM website: <http://www.wrcc.osmre.gov/programs/oversight/NorthDakota.shtm>.

E. Clean Water Act Coordination

As part of OSM's "Immediate Stream Protection Measures," OSM held an interagency coordination meeting with NDPSC 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 NDPSC properly conducts the SMCRA/CWA coordination processes with the appropriate state agencies and NDPSC 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.

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 NDPSC staff at NTTP training courses during the evaluation year.

B. Technical Innovation and Professional Services (TIPs)

During the evaluation year two Reclamation Division staff attended a total of three TIPS training courses. No staff members participated as TIPS instructors.

North Dakota PSC staff submitted a recommendation for new mobile computing devices via a request from the OSM TIPS Mobile Computing Team. The North

Dakota PSC staff recommended a Laser Technology, TruPulse 360-Laser Rangefinder / Integrated Compass and Inclinometer. This TruPulse Laser Rangefinder is fully compatible with ArcPad and ArcGIS and can be used in the field connected to other mobile computing devices to provide GPS coordinate readings and laser rangefinder distances across difficult or un-navigable terrain. <http://www.opticsplanet.net/laser-technology-trupulse-360-laser-rangefinder.html> . The TIPS Mobile Computing Team has accepted this recommendation and will purchase this TruPulse 360-Laser Rangefinder to enhance mobile computing capabilities.

IX. Conclusion

Overall, North Dakota has a very effective program with no major issues that need corrective action. NDPSC actively pursues public participation and outreach efforts. NDPSC employees demonstrate a high level of technical expertise and take advantage of OSM and other training opportunities. They also make use of the latest tools and technology. During EY2011, a single, minor off-site impact occurred and was dealt with appropriately by both the operator and the State. Reclamation is occurring as contemporaneously as possible. NDPSC does an excellent job of collecting and tracking the data necessary to accurately track and assess reclamation success as well as the contemporaneous nature of that reclamation. Customer service efforts have been demonstrated to be appropriate and scientifically sound. The State conducts the appropriate number of inspections and those inspections are thorough and complete. This report includes summaries of several supplemental reports, including: *Contemporaneous Reclamation in North Dakota (EY2011)*, *Vegetative Diversity on Reclaimed Lands in North Dakota*, *Agricultural Productivity on Reclaimed Lands*, *Off-Site Impacts in North Dakota (EY2011)*, and *Customer Service in North Dakota (EY2011)*.

Each of these supplemental reports can be found in the evaluation file, which is available for review at the Casper Field Office or online at the following OSM website: <http://www.wrcc.osmre.gov/programs/oversight/NorthDakota.shtm>.

North Dakota Annual Evaluation Report Evaluation Year 2011

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 North Dakota 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 North Dakota'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 USE¹
(Millions of short tons)

Calendar Year	Surface Mines	Underground Mines	Total
2010	28.856	0.000	28.856

¹Coal 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

Numbers of Permanent Program Permits and Initial Program Sites														
Mines and Other Facilities	Permanent Program Permits			Initial Program Sites			Area in 1's of acres							
	Active	Inactive	Aban-doned	Total	Active	Inactive	Aban-doned	Total	Insp. Units ¹	Federal Lands	Permanent Program Permits (Permit Area)	Initial Program Sites	Federal Lands	State/Tribal and Private Lands
Surface Mines	20	5	0	25	0	1	0	1	26	14,970.0	89,226.0	0.0	52.0	104,248.0
Underground Mines	0	0	0	0	0	0	0	0	0	0.0	0.0	0.0	0.0	0.0
Other Facilities	0	0	0	0	0	0	0	0	0	0.0	0.0	0.0	0.0	0.0
Total	20	5	0	25	0	1	0	1	26	14,970.0	89,226.0	0.0	52.0	104,248.0
Permanent Program Permits and Initial Program Sites:												Average Acres per Site:	4,009.54	
Average Number of Permanent Program Permits and Initial Program Sites per Inspectable Unit (IU):												Average Acres per IU:	4,009.54	
Permanent Program Permits in Temporary Cessation:												Number More than 3 Years:	0	
EXPLORATION SITES												Sites with Federal lands²:	0	
Number of Exploration Sites with Permits:												Sites with Federal lands³:	0	
Number of Exploration Sites with Notices:												Sites with Federal lands³:	0	

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(c)(5)	0	0
Steep Slope Mining	785.15(c)	0	0
AOC Variances for Steep Slope Mining	785.16(b)(2)	0	0
Prime Farmlands Historically Used for Cropland	785.17(e)	0	19
Contemporaneous Reclamation Variances	785.18(c)(9)	0	0
Mining on or Adjacent to Alluvial Valley Floors	785.19(e)(2)	0	0
Auger Mining	785.20(c)	0	0
Coal Preparation Plants Not Located at a Mine Site	785.21(c)	0	0
In-Situ Processing	785.22(c)	0	0
Remining	773.15(m) 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	2

TABLE 4
PERMITTING ACTIVITY

Type of Application	Surface Mines			Underground Mines			Other Facilities			Totals		
	App. Rec.	Issued/ Appvd	Acres	App. Rec.	Issued/ Appvd	Acres ¹	App. Rec.	Issued/ Appvd	Acres	App. Rec.	Issued/ Appvd	Acres
New Permits	0	0	0	0	0	0	0	0	0	0	0	0
Renewals	3	7		0	0		0	0		3	7	
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												
Exploration notices ²												
Revisions that do not add acreage to the permit area		27			0						27	
Revisions that add acreage to the permit area but are not incidental boundary revisions	1	1	676	0	0	0	0	0	0	1	1	676
Incidental boundary revisions	0	0	0	0	0	0	0	0	0	0	0	0
Totals	4	35	676	0	0	0	0	0	0	4	35	676

Permits terminated for failure to initiate operations:

Acres of Phase III bond releases (Areas no longer considered to be disturbed):

Permits in temporary cessation

Midterm permit reviews completed that are not reported as revisions

¹Includes only the number of acres of proposed surface disturbance

²State approval not required. Involves removal of less than 250 tons of coal and does not affect lands designated unsuitable for mining.

Number: 0
Acres: 0.0
Acres: 1,407.0
Terminations: 0
Number: 0

TABLE 5

OFF-SITE IMPACTS
 EXCLUDING BOND FORFEITURE SITES

RESOURCES AFFECTED DEGREE OF IMPACT TYPE OF IMPACT EVENT	People			Land			Water			Structures		
	Minor	Moderate	Major	Minor	Moderate	Major	Minor	Moderate	Major	Minor	Moderate	Major
	NUMBER OF EVENTS											
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	1	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
Total	0	0	0	1	0	0	0	0	0	0	0	0

Total Number of Inspectable Units²: 26

Inspectable Units with one or more off-site impacts: 1

Inspectable Units free of off-site impacts: 25

% of Inspectable Units free of off-site impacts¹: 96

OFF-SITE IMPACTS AT BOND FORFEITURE SITES

RESOURCES AFFECTED DEGREE OF IMPACT TYPE OF IMPACT EVENT	People			Land			Water			Structures		
	Minor	Moderate	Major	Minor	Moderate	Major	Minor	Moderate	Major	Minor	Moderate	Major
	NUMBER OF EVENTS											
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
Total	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 impacts¹: 0

TABLE 5
(Continued)

TOTAL OFF-SITE IMPACTS
INCLUDING BOND FORFEITURE SITES

RESOURCES AFFECTED DEGREE OF IMPACT TYPE OF IMPACT EVENT	People			Land			Water			Structures		
	Minor	Moderate	Major	Minor	Moderate	Major	Minor	Moderate	Major	Minor	Moderate	Major
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	1	0	0	1	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
Total	1	0	0	1	0	0	0	0	0	0	0	0

Total Number of Inspectable Units: 26

Inspectable Units with one or more off-site impacts: 1

Inspectable Units free of off-site impacts: 25

% 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. 96

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
SURFACE COAL MINING AND RECLAMATION ACTIVITY
Areas of Phase I, II, and III Bond Releases During the Evaluation Year (EY)

Phase I Releases	Phase II Releases			Phase III Releases			Total Acres Released During the EY	
	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	Phase I		Phase II
0		0			1,136		1,136	
	0		1,407				1,407	
			1,407				1,407	
Cumulative Total Acres Released under All Bond Release Phases at the End of the Evaluation Year								3,950

Number of Permanent Program Permits Terminated under Phase III Bond Release and Initial Program Sites with Jurisdiction Terminated During the Evaluation Year

1

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	104,979	104,248	(731)
Area Bonded for Disturbance without Phase I Bond Release	78,935	75,956	(2,979)
Area Bonded for Disturbance for which Phase I Bond Release Has Been Approved	15,251	16,364	1,113
Area Bonded for Disturbance for which Phase II Bond Release Has Been Approved	10,791	11,928	1,137
Total Area Bonded for Disturbance	104,979	104,248	(731)
Area Bonded for Remaining	0	0	0
Disturbed Area	65,417	67,071	1,654

Areas of Permits Disturbed by Surface Coal Mining and Reclamation Operations

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	5.30
Inspection	2.20
Other (supervisory, clerical, administrative, fiscal, personnel, etc.)	2.15
Regulatory Program Total	9.65
AML Program Total	4.75
TOTAL	14.40

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	798,743		
Other Regulatory Funding, if applicable	0		
Subtotal (Regulatory Funding)	798,743	1,248,630	64
Small Operator Assistance Program Grant Funding	0	0	
Abandoned Mine Land Reclamation Funding	3,425,951	3,425,951	100
Watershed Cooperative Agreement Program	0	0	
TOTAL	4,224,694		

TABLE 10
STATE OR TRIBAL INSPECTION ACTIVITY

Activity Status	Permits and Sites			Complete Inspections			Partial Inspections		
	Number of Permits and Sites	Inspections Required Annually	Approximate Number of Required Inspections ¹	Number of Complete Inspections Conducted	Inspections Required Annually	Approximate Number of Required Inspections ¹	Number of Partial Inspections Conducted	Inspections Required Annually	Approximate Number of Required Inspections ¹
Approximate Number of Required Inspections of Permanent Program Permits									
Active	20	4	80		8	160			
Inactive	5	4	20		0	0			
Abandoned	0	0	0		0	0			
Approximate Number of Required Inspections of Initial Program Sites									
Active	0	0	0		0	0			
Inactive	1	2	2		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	20		80	83		160			458
Total Inactive	6		22	23		0			60
Total Abandoned	0		0	0		0			0
Total	26		102	106		160			518
Exploration Sites with Permits and with Notices									
All Exploration	6			5					0

¹ 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	1	1
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

	Complete		Partial		Total
	Joint	Non-Joint	Joint	Non-Joint	
Oversight Inspections	1	1	6	0	8
Site Visits	Technical Assistance		Other		Total
	0		1		1

Violations Observed by OSM and Citizen Requests for Inspection¹

Type of Action	Total number of each action
How many violations were observed by OSM on oversight inspections?	0
Of the violations observed, how many did OSM defer to State action during inspections?	0
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.

TABLE 14

STATUS OF ACTION PLANS

Action Plan ID	Problem Type ¹	Problem Title	Problem Description	Date Action Plan Initiated	Scheduled Completion Date	Actual Completion Date
----------------	---------------------------	---------------	---------------------	----------------------------	---------------------------	------------------------

¹ Problem Type: "PA" indicates a required Program change under subchapter T or 732
 "RP" indicates a Regulatory Program implementation or administrative problem

TABLE 15
(Optional)

POST-MINING LAND USE ACREAGE
OF SITES FULLY RECLAIMED
(Phase III bond release or termination of jurisdiction under the Initial Program)

Land Use ¹	Acres Released
Cropland	142.00
Pasture/Hayland	244.00
Grazingland	673.00
Forestry	41.00
Residential	0.00
Industrial/Commercial	0.00
Recreation	0.00
Fish & Wildlife Habitat	0.00
Developed Water Resources	8.00
Undeveloped land or no current use or land management	0.00
Other - Public Utilities	0.00
Other - undisturbed	270.00
Other - roads/ROWs	19.00
Other - shelterbelts	10.00
Other -	0.00
Sub-Total Other	299.00
Total	1,407.00

¹ Land uses as defined in 30 CFR 701.5 or "Other" as defined under the state or tribal program

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APPENDIX 2:

Comments of “State of North Dakota” on the Report

Comments and suggestions were received by from the NDPSC on August 26, 2011. OSM agrees with the State comments and suggestions and has made appropriate modifications to the annual oversight report.