



**OFFICE OF SURFACE MINING
RECLAMATION AND ENFORCEMENT**

Annual Evaluation Summary Report

**For The
North Dakota Public Service Commission
Regulatory Program**



Evaluation Year 2009 (July 1, 2008 to June 30, 2009)

TABLE OF CONTENTS

I.	Introduction	1
II.	Overview of Coal Mining Industry	1
III.	Overview of Public Participation in the Program	2
IV.	Major Accomplishments/Issues/Innovations	2
V.	Success in Achieving the Purposes of SMCRA	4
	A. Off-site Impacts	4
	B. Reclamation Success	5
	C. Customer Service	6
	D. Pre and Post Mining Land Use	7
VI.	OSM Assistance	9
VII	General Oversight Topic Reviews	10
	A. Program Amendments	10
	B. Inspection and Enforcement	10
	C. Grants Management	11
	Appendix A: Tabular Summary of Core Data to Characterize the Program	13
	Appendix B: North Dakota PSC Comments on this Report	14

Cover photo: Falkirk Mine, Permit NAFK- 9503, shows reclaimed cropland in the W1/2 of Section 25. This reclaimed cropland was deep chiseled a few years ago. It is currently being disked and seeded to oats. The dragline and a reclaimed wetland are in the background.

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, 2008 to June 30, 2009. Detailed background information and comprehensive reports for the program elements evaluated during the period are available for review and copying at the Casper OSM Office.

The following acronyms are used in this report:

CFO	Casper OSM Office
CO	Cessation Order
GIS	Geographic Information System
GPS	Global Positioning System
NDAC	North Dakota Administrative Code (Rules)
NDCC	North Dakota Century Code (Statute)
NOV	Notice of Violation
NRCS	Natural Resource Conservation Service
NTTP	National Technical Training Program
OSM	Office of Surface Mining Reclamation and Enforcement
OTT	Office of Technology Transfer
PSC	North Dakota Public Service Commission
SMCRA	Surface Mining Control and Reclamation Act of 1977
TIPS	Technical Innovation and Professional Services
TDN	Ten-Day Notice
WRCC	Western Region Coordination Center
WRTT	Western Regional Technical Team

II. Overview of the North Dakota Coal Mining Industry

The coalfields in 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 per cent) and low sulfur content (less than 1.0 per cent). 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 mines in North Dakota are currently large-scale surface mines that provide coal for mine-mouth or regional electrical generation facilities and a nearby coal gasification facility.

The first commercial mine 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 with 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 2009 it produced 29.78 million tons (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 35 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.

North Dakota mines provide direct employment for approximately 4,074 people in five counties with another 23,915 people indirectly employed and affected by the lignite industry. However, 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. The coal industry generates an estimated \$103 million in state tax revenue.

III. Overview of the Public Participation Opportunities in the Oversight Process and the State Program

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 (PSC) 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 PSC is adhering to the State's policies and procedures regarding opportunities for public participation in all phases of their reclamation program.

IV. Major Accomplishments/Issues/Innovations in the (State) Program

The North Dakota Public Service Commission (PSC) continues to administer a very efficient and successful coal regulatory program as set forth in Section 102 of the Surface Mining Control and Reclamation Act of 1977. 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 (Table 7) considering the amount of land mined and reclaimed each year. 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 PSC 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 high quality of mine land reclamation is one of the most notable aspects of the North Dakota coal regulatory program. This is reflected in the number of national Excellence in Surface Mining and

Reclamation awards that North Dakota mines have received. Since the program was initiated in 1986, North Dakota mines have received fifteen national reclamation awards. The sense of environmental responsibility on the part of mining companies is also reflected in the minimal violations that have been occurred in the past.

The PSC continues to encourage mining companies to file bond release applications as reclaimed land becomes eligible for release at the end of the ten-year revegetation responsibility period. Over 9,000 acres of reclaimed lands that were subject to North Dakota's permanent regulatory program have received final bond release. All of the post-SMCRA acreages at the former Indian Head, Royal Oak and Velva Mines have been totally bond released. Reclaimed lands that have received final bond release under the permanent program include lands reclaimed to cropland, hayland, native grassland, tame pastureland, woodland, permanent impoundments, industrial, recreational and residential use.

To keep a strong focus on bond release and for workload planning purposes, the Reclamation Division is meeting annually with each of the major mining companies in North Dakota to discuss specific plans that they have for submitting final bond release applications. Annual mine maps are used to identify possible bond release areas based on reclaimed tracts that are nearing the end of the minimum ten-year revegetation liability period. These discussions also include the specific methods that are or will be used to collect the vegetative data needed for final bond release.

The Reclamation Division continues to encourage and works closely with mining companies on 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. 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 PC's equipped with 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 (OTT) in the WRCC and 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.

Reclamation Division staff continue to work with the Natural Resource Conservation Service (NRCS) on procedures for mapping and classifying reclaimed soils. A pilot project at one of the mines has been completed and NRCS plans to complete the mapping of all currently reclaimed lands in the next few years. These soil maps will be an important tool for individuals that farm reclaimed croplands and they will be used to develop conservation practices that may be needed to comply with federal programs.

Overall, North Dakota has an excellent coal regulatory program. PSC staff continue 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 PSC 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 as Determined by Measuring and Reporting End Results**

To further the concept of reporting end results, the findings from performance standard and public participation evaluations are being collected for a national perspective in terms of the number and extent of observed off-site impacts, the number of acres that have been mined and reclaimed and which meet the bond release requirements for the various phases of reclamation, and the effectiveness of customer service provided by the State. Individual topic reports are available in the Casper Field Office which provides additional details on how the following evaluations and measurements were conducted.

A. **Off-Site Impacts:**

For the purpose of oversight, an 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. 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. The CFO reviewed the following aspects of the North Dakota Program to identify any off-site impacts.

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, citizen 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 both North Dakota and CFO.

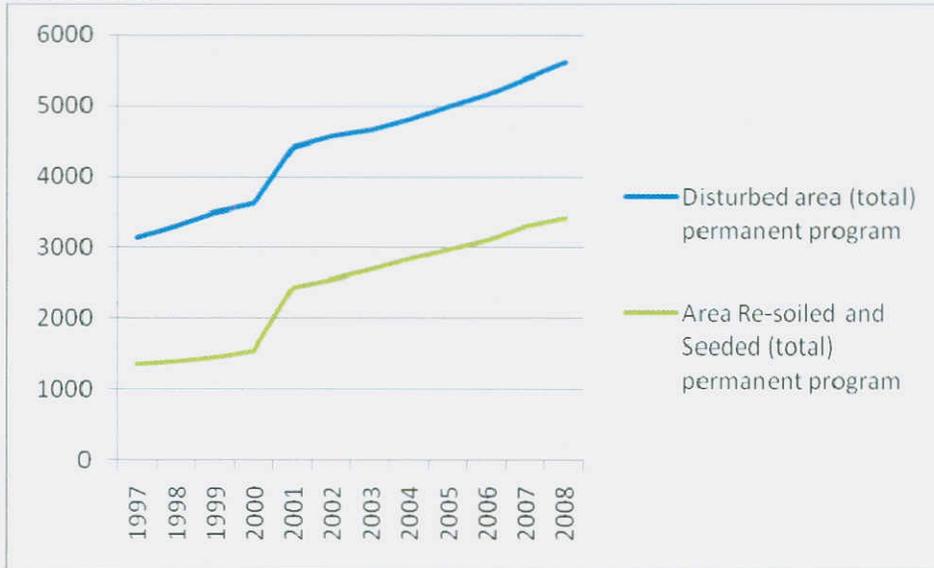
Table 4 in this annual report records the number and type of off-site impacts. At the time of this report, a single off-site impact has been reported, at the Falkirk Mine. This incident involved erosion at a discharge outlet and failure to have an energy dissipater on the discharge pipe of Pond P-E24-01. North Dakota PSC issued NOV No. 803 on October 29, 2008. Falkirk completed remedial actions specified in the NOV within the prescribed time and the PSC terminated the NOV on December 24, 2008.

Note that the evaluation year began with 31 inspectable units. One unit received final bond release. Tables 2 and 4 of this report reflect the total of 30 inspectable units that were present at the end of the evaluation year.

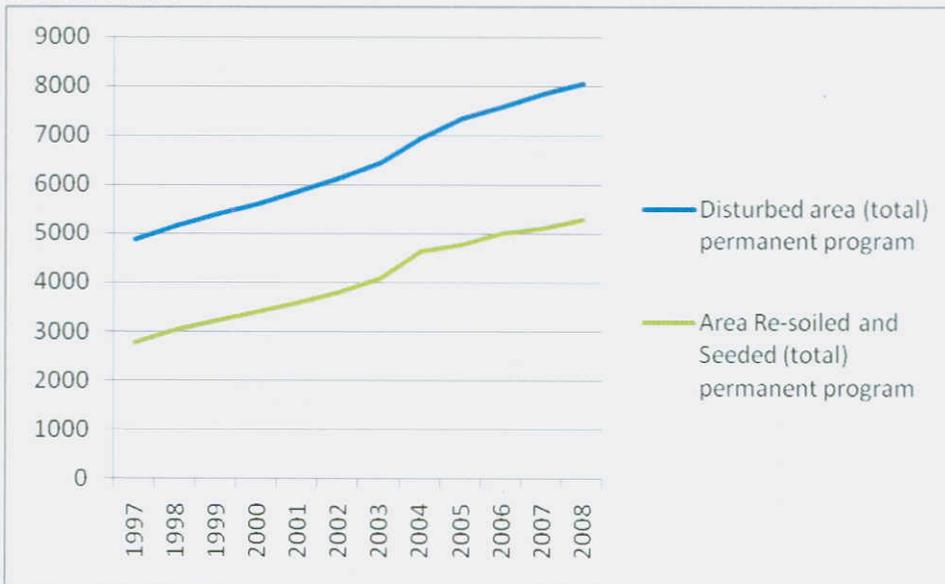
B. Reclamation Success:

OSM evaluated the effectiveness of the State program based on the number of acres that have received bond release (Table 5). The CFO determined that the State program is effective in its goal of having all disturbed lands reclaimed to the approved postmining land use. Table 5 catalogues the acreage of land released from bond for Phase I, II, and III. The CFO reviewed the acres disturbed and the acres reclaimed on a site-specific basis at the following mine sites: 1.) Beulah Mine, 2.) Center Mine 3.) Freedom Mine and 4.) Falkirk Mine. The following graphs demonstrate that the rate of reclamation largely parallels the rate of mining in each of these mines.

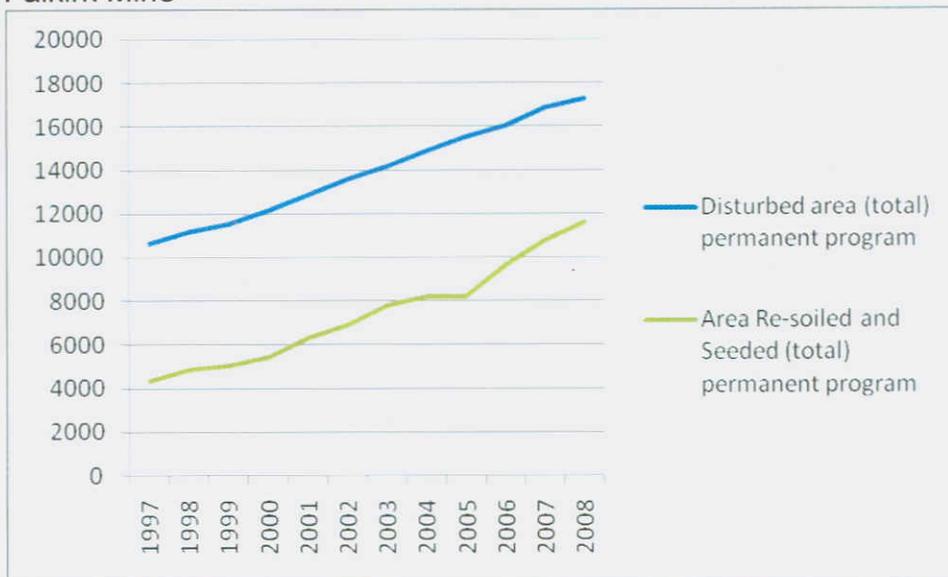
Beulah Mine



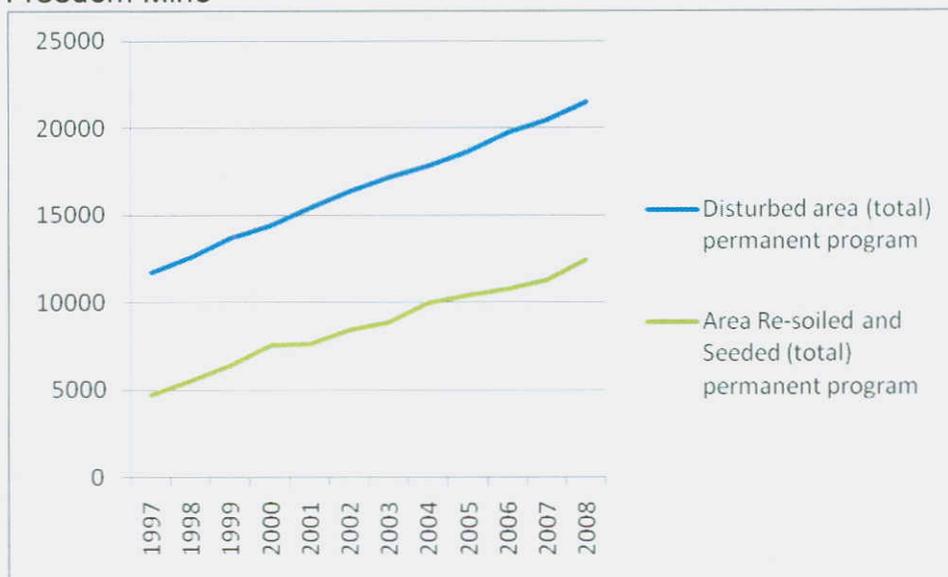
Center Mine



Falkirk Mine



Freedom Mine



The CFO feels that reclamation in North Dakota is occurring as contemporaneously as practicable. The CFO will continue to report "Reclamation Success" and inventory the status of disturbed lands for future reports.

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. The provisions of the North Dakota program that extensively describe these procedures can be found at sections NDCC 38-14.1-18 and NDAC 69-05.2-10 and 69-05.2-12.

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.

One verbal complaint was received by the Reclamation Division near the end of the evaluation period. This person had concerns that coal outcrop drilling by the mine operator had affected his water well. The concerns are still being investigated at the end of the evaluation year.

The Reclamation Division responded to numerous requests for information from landowners, mining companies, government agencies and others. There has been a renewed interest in energy development (including coal) in North Dakota in recent years. This has resulted in numerous inquiries of the Reclamation Division. Two permit applications for proposed new mines were filed during the evaluation year; however, one of these applications was later withdrawn. Staff spent a considerable amount of time during the evaluation period working with the companies and their consultants on premine baseline studies and responding to questions on other application requirements. In addition, another company is exploring the possibility of mining uraniferous (uranium enriched) lignite in western North Dakota. Mining of uraniferous lignite would be subject to the North Dakota's surface coal mining and reclamation law; however, additional rules may be necessary to address special concerns with radioactive materials.

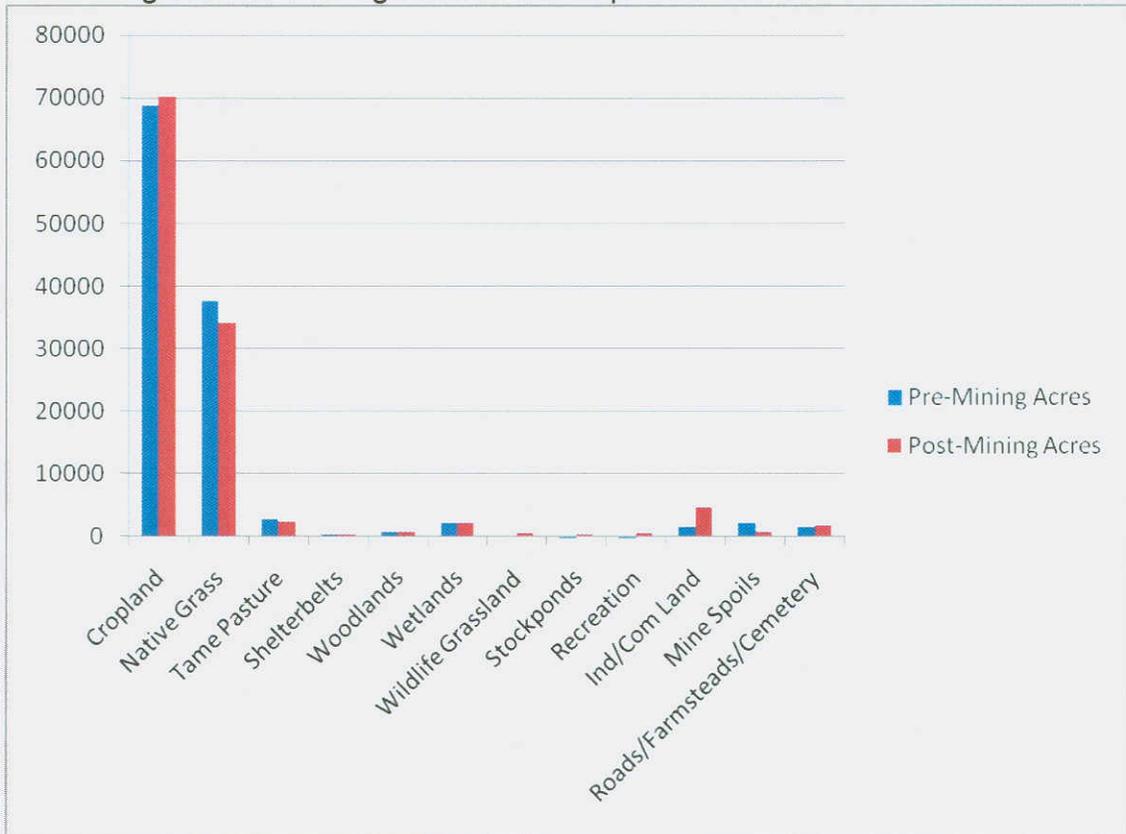
The PSC responds to customer requests for information and complaints in an appropriate, timely and professional manner.

D. Pre and Post Mining Land Use

OSM evaluated the pre and post mining land use of areas reclaimed on North Dakota surface coal mines. This evaluation included information from permitted surface coal mines, both active and inactive, and excluded leonardite operations. Land use acreages are estimates and low shrubs and woodland areas are included with native grasslands. Areas identified as cropland also include hayland.

Reclamation efforts strive to return mined lands to their pre-mine condition. However, changes in the post-mining land use can and do occur for a variety of reasons, often at the request of the land owner. Federal code clearly states that any changes from one land use category to another must be approved by the regulatory authority. Sound reclamation planning and sound postmining land management practices must be clearly stated and accessible in the mining permit.

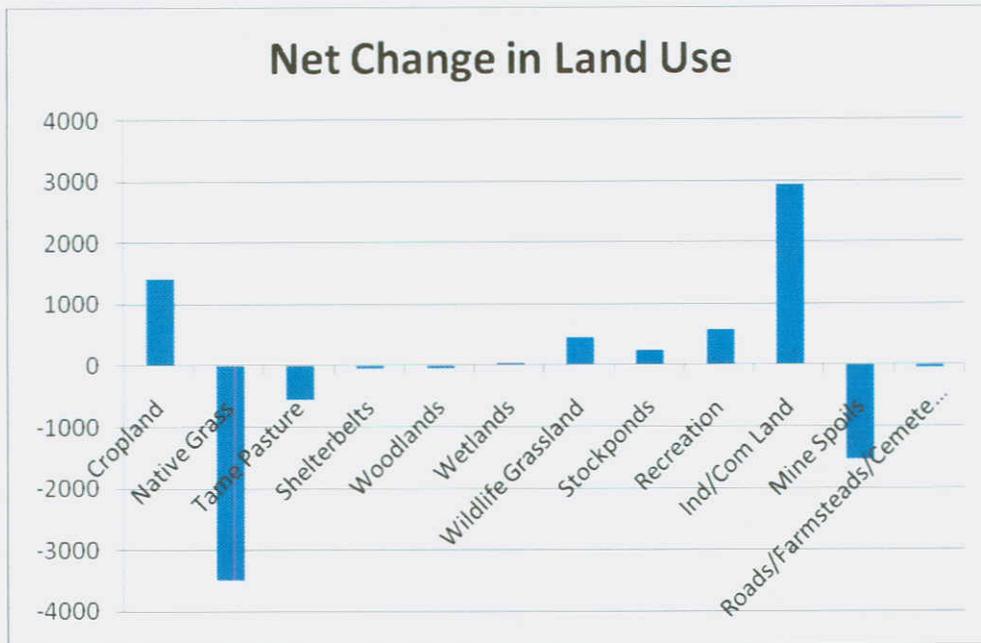
Pre-Mining Vs. Post Mining Land Use Comparison



Examination of the pre and post mining land use data reveal certain trends. The largest category of pre-mining land is predictably cropland and native grasslands. Statistically, these two groups have the greatest likelihood of experiencing a change in the post mining land use. The amount of cropland has increased from 68,870 pre-mining acres to 70,302 post-mining acres, for a net increase of 1,432 acres. The amount of native grassland has decreased from 37,614 pre-mining acres to 34,119 post-mining acres, for a net decrease of 3,495 acres. Demand for quality farmland in lieu of native grasslands in North Dakota undoubtedly contributed to this trend.

The amount of mine spoils has decreased from 2,400 pre-mining acres to 853 post-mining acres, for a net decrease of 1,547 acres. This trend is demonstrative of successful efforts to reclaim older, pre-law spoils.

The data also shows a significant increase in industrial/commercial land from 1,665 pre-mine acres to 4,622 post-mine acres. Moderate increases in wildlife grassland, stockponds, and recreational lands are also evident.



VI. OSM Assistance

North Dakota PSC staff continue to participate in technological advances, exchanging electronic information with their industries, converting non-electronic documents to electronic format, and developing a GIS for managing data and technical evaluations, including bond release.

OSM staff offered their assistance to North Dakota PSC by re-processing imagery from the Royal Oak area in an effort to improve the quality of the images. North Dakota also requested assistance georeferencing three sets of images taken over the Glenharold mine in Mercer and Oliver Counties.

The North Dakota Program utilized the FLIR (Forward Looking InfraRed) Camera as part of the “shared equipment program. OSM-TIPs (Technical Innovative and Professional Services) also loaned the GeoVision Borehole Camera system to the North Dakota Program, who used the equipment in a comparative evaluation of the GeoVision system and the Mini PTZ Model Mk2 borehole camera system.

The North Dakota PSC retains highly qualified staff capable of utilizing OSM TIPs software and equipment. Staff routinely use mobile computing technology, and require TIPs support of ArcPad, GIS, AutoCAD, and Remote Sensing software licenses to perform their regulatory duties. The North Dakota Program has representatives that are Geospatial Data Stewards, participate on the Western Region Technology Transfer Team, and had several staff attend the OSM TIPs Geospatial Conference. Continued involvement in these technical conferences and teams will foster additional partnerships and innovative approaches to resolve technical challenges.

During the evaluation period, five Reclamation staff and one AML staff attended a total of eleven NTTTP (National Technical Training Program) training courses. Four Reclamation staff and two AML staff

attended a total of seven TIPs course. No North Dakota regulatory personnel participated as instructors during this reporting period.

OSM's Technical Librarian filled one reference request and provided four article reprints to North Dakota staff members.

VII. General Oversight Topic Reviews

A. Program Amendments

Overall, the PSC has kept its program in compliance with SMCRA and any changes to the counterpart Federal regulations. The North Dakota program has been maintained in a contemporaneous and professional manner. During this evaluation period, the final approval decision on North Dakota State Program Amendment XXXVIII (SPATS # ND-050-FOR) was published in the Federal Register Notice on September 12, 2008. The amendment package pertains primarily to changes in the self bonding provisions in NDAC 69-05.2-12-05.1. Language has been added that will allow the Commission to accept bond ratings from other national recognized ratings organizations, in addition to Moody's Investor Service and Standards and Poor's ratings, for companies that guarantee self-bonds. At this time, there are no other outstanding programmatic issues unresolved in the North Dakota program.

North Dakota does an excellent job of keeping OSM informed of any proposed changes to its program. Their informal process allows for input from industry, citizen groups, the general public and other agencies like OSM, prior to formalized rulemaking. Any issues or problems with the proposed rule changes can then be identified and dealt with early in the process, allowing the formal program changes to proceed through the rulemaking process easier and more efficiently.

B. Inspection and Enforcement

The North Dakota Public Service Commission continues to conduct frequent and thorough inspections. North Dakota conducted 84 complete inspections and 460 partial inspections on all active mine sites during this evaluation year. North Dakota also conducted 43 complete inspections and 72 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 Casper Field Office conducted one final bond release inspection, four complete inspections and two partial inspections of coal mining operations in North Dakota during this evaluation year.

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

North Dakota inspection reports are complete, accurately document site conditions and mine activity, and give the status of any violations. The reports have continuity with previous reports. All performance standards were reviewed and documented during complete inspections and the reports contain a discussion of the current mine status. Each partial inspection report documents mining and reclamation activities, performance standards and permit requirements that were reviewed, as well as those portions of the mine that were inspected.

The PSC maintains an inspectable units list and an inspection database sufficient to meet its program requirements.

The PSC issued five NOV's and no CO's during this evaluation period. No patterns of violation exist. No-show cause hearings or alternative enforcement actions occurred during this evaluation period.

The CFO did not issue any enforcement actions (NOV, CO) during this review period. No TDN's were sent to the State.

C. Grants Management

On April 21st 2009, CFO conducted an evaluation plan performance review, which evaluated the effectiveness of state procedures for property procurement, management and disposal of property. This review looked at methods used by North Dakota to make purchases for supplies and equipment. Also sampled were large purchases that may have been made from the FY2007 and FY2008 A&E Grants. This included any leased items and contracted services that may have been secured by the State Regulatory Program.

This review focuses on North Dakota's purchasing procedures that must be followed when making purchases with federal funds provided by the Office of Surface Mining (OSM) through annual A&E Grants. It will help clarify the States procurement procedures for major purchases \$5,000 or above and if they are effectively implemented by the State program.

The North Dakota Regulatory Program keeps track of all purchases of \$5,000 or more. The North Dakota Regulatory Program is also responsible for ensuring that all equipment acquired by the State is properly accounted for, the date acquired, location and disposal date. The North Dakota Program is also responsible for taking care of fixed assets and their annual physical inventory. The Public Service Commission's Accounting Division is in charge of reviewing all requisitions requiring procurement actions.

The North Dakota Regulatory Program keeps a summary by grant, of all materials, supplies and equipment, purchased through federal funding provided by OSM's A&E Grants. This list updated monthly, consists of expenditures by project, account code and revenue source. It tracks all capital expenditures, office equipment, and fees and services. Specific account codes are used for purchases meeting the capitalization threshold of \$5,000 and for those assets below the capitalization threshold.

This review found that the North Dakota Regulatory Program uses OSM Form 60 to report equipment purchases made by Federal grant funds. The property report is submitted to OSM on an annual basis. This review also found that in the past the North Dakota Regulatory Program has purchased some items valued at \$5,000 or more. The latest purchase, a Graphtec Scanner valued at \$14,800 was cost shared with the North Dakota AML Program, for shared use by both programs. The North Dakota Program notifies OSM of planned disposition of property or equipment that still retains a marketable value of \$5,000 or above. It is a common practice within the State to make use of materials and equipment until they are no longer usable or do not meet the needs of the program.

Most of the North Dakota Regulatory Program purchases consist of office materials and supplies, and office equipment. Computer purchases average under \$5,000 per unit and have a depreciation life of three to five years where upon new machines have to be purchased. All purchases are made through the North Dakota State procurement system which requires proper documentation and inventory records. They are kept and tracked by North Dakota's asset management program.

Vehicles are purchased through the State motor pool system and as such, are not purchased by grant funds as they are on a state use lease system. A log is kept of all fleet vehicle use and rates. This list includes vehicle operation, depreciation and replacement rates and mileage/hour usage rental rates. The replacement cost rates are not charged to the federal programs.

The North Dakota State Property Disposal Manual sets forth policies and procedures for disposition of property. This manual applies to all agencies and departments within the State. Procedures are outlined within the manual for identifying and declaring surplus property and how it should be handled. Property that has been declared to be surplus can be transferred to another State Agency, traded-in, or parted out for use on similar equipment. Each agency must complete a State Surplus Property Disposal form SFN 2426 request whenever it is releasing excess property. No items valued at \$5,000 or above were surplus by the North Dakota Regulatory Program in the past two grant fiscal years.

This review found that the State of North Dakota's Regulatory Program has made equipment purchases that exceed \$5,000 in the past. Some of these purchases however have been cost-shared with North Dakota's Abandoned Mine Land Program. The State's Fixed Asset accounting Policy is employed when large or major purchases are made. This applies to materials, supplies and contracted services. All inventory records are kept up to date, and grant summary records are kept by the State Regulatory Program to identify capitalized asset purchases.

Through OSM Form 60 the State keeps OSM informed of purchases made with A&E grant funds. North Dakota has a good procurement system along with a viable property inventory system. This review found that the State procedures for property procurement, management and disposal are effective and no further action is required as a result of these report findings.

APPENDIX A

Tabular Summaries of Data Pertaining to Mining, Reclamation and Program Administration

These tables present data pertinent to mining operations and State and Federal regulatory activities within North Dakota. They also summarize funding provided by OSM and North Dakota staffing. Unless otherwise specified, the reporting period for the data contained in all tables is the same as the evaluation year. Additional data used by OSM in its evaluation of North Dakota's performance is available for review in the evaluation files maintained by the Casper OSM Office.

When OSM's Directive REG-8, Oversight of State Programs, was revised in December 2006, the reporting period for coal production on Table 1 was changed from a calendar year basis to an evaluation year basis. The change was effective for the 2007 evaluation year. However, with Change Notice REG-8-1, effective July 1, 2008, the calendar year reporting period in Table 1 for coal produced for sale, transfer or use was reestablished and is effective for the 2008 evaluation year. In addition, for the 2008 evaluation report, coal production for the two prior years reported on Table 1 was recalculated on a calendar year basis so that all three years of production reported in the table are directly comparable. This difference in reporting periods should be noted when attempting to compare coal production figures from annual evaluation reports originating both before and after the December 2006 revision to the reporting period.

APPENDIX B

North Dakota PSC Comments on this Report

North Dakota PSC relayed the following comments about the draft OSM Annual Evaluation Summary Report for EY2009:

- *On Page 8, the net decrease of native grassland is 3,495 acres, not 1,432 acres.
- *Also on Page 8, the word “reclaim” was misspelled.
- *On Page 10, the word “regulatory” was added to the 2nd to last paragraph of Section **VI. OSM Assistance**. This is to clarify that the one ND staff member that did participate as an instructor is a member of the AML program.
- *ND PSC asked for confirmation that CFO conducted four complete inspections during the evaluation year. The number of complete inspections reported by CFO reflects inspections of four inspectable units, not individual mines. The original statement that four complete inspections were conducted is confirmed as correct.
- * It was also suggested that the annual overflight be mentioned in Section **VII. B. Inspection and Enforcement**.
- *Appendix A, Table 3: The number of incidental boundary revisions is 0, not 27. Changes in the totals are also reflected by this change.
- *Appendix A, Table 8: Federal funding as a percentage of total program costs is 64.00 %, not 64.07 %.

The Casper Field Office agrees with all North Dakota PSC comments and has made appropriate changes to the report.

TABLE 1

Coal Produced for Sale, Transfer, or Use
 (Millions of Short Tons)

Period	Surface Mines	Underground Mines	Total
Coal production ^A for entire State:			
Calendar Year			
CY 2006	30.415	0.000	30.415
CY 2007	29.674	0.000	29.674
CY 2008	29.780	0.000	29.780

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.

^A

Provide production information for the latest three full calendar years to include the last full calendar year for which data is available.

TABLE 2

Inspectable Units
As of June 30, 2009

Coal mines and related facilities	Number and Status of Permits								Nbr. of Insp. Units ^A	Permitted Acreage ^B (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

LANDS FOR WHICH THE STATE IS THE REGULATORY AUTHORITY

Surface mines	0	20	1	9	0	0	1	29	30	0.0	145.2	1.4	918.0	1,064.6
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	0	20	1	9	0	0	1	29	30	0.0	145.2	1.4	918.0	1,064.6

Total number of permits:	30
Average number of permits per inspectable unit (excluding exploration sites):	1.00
Average number of acres per inspectable unit (excluding exploration sites):	3,548.67
Number of exploration permits on State and private lands:	0
Number of exploration notices on State and private lands:	7
On Federal lands ^C :	0
On Federal lands ^C :	0

IP: Initial regulatory program sites
PP: Permanent regulatory program sites

^A Inspectable units include multiple permits that have been grouped together as one unit for inspection frequency purposes by some State programs.

^B 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.

^C 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.

TABLE 3

State Permitting Activity
 As of June 30, 2009

Type of Application	Surface mines			Underground mines			Other facilities			Totals		
	App. Rec.	Issued	Acres	App. Rec.	Issued	Acres ^A	App. Rec.	Issued	Acres	App. Rec.	Issued	Acres
New Permits	2	0	0	0	0	0	0	0	0	2	0	0
Renewals	4	3		0	0		0	0		4	3	
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										0	0	
Exploration notices ^B											7	
Revisions (exclusive of incidental boundary revisions)		22			0			0			22	
Revisions (adding acreage but are not incidental boundary revisions)	1	2	414	0	0	0	0	0	0	1	2	414
Incidental boundary revisions	0	0	0	0	0	0	0	0	0	0	0	0
Totals	7	27	414	0	0	0	0	0	0	7	34	414

OPTIONAL - Number of midterm permit reviews completed that are not reported as revisions: 10

^A Includes only the number of acres of proposed surface disturbance.

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

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
TYPE OF IMPACT AND TOTAL NUMBER OF EACH TYPE												
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	1	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	1	0	0	0	0	0

Total number of inspectable units (excluding bond forfeiture sites): 30
 Inspectable units free of off-site impacts: 29
 Inspectable units with off-site impacts: 1

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
TYPE OF IMPACT AND TOTAL NUMBER OF EACH TYPE												
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 units (only bond forfeiture sites): 0
 Inspectable units free of off-site impacts: 0
 Inspectable units with off-site impacts: 0

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	2,225		
Phase II	- Surface stability - Establishment of vegetation	2,664	0	
Phase III	- Post-mining land use/productivity restored - Successful permanent vegetation - Groundwater recharge, quality and quantity restored - Surface water quality and quantity restored	2,664	2,225	2,664
Bonded Acreage ^A		Acres during this evaluation year		
Total number of new acres bonded during this evaluation year		415		
Number of acres bonded during this evaluation year that are considered re-mining, if available		0		
Number of acres where bond was forfeited during this evaluation year		0		
Bonded Acreage Status		Cumulative Acres		
Total number of acres bonded as of the end of last review period (June 30, 2008) ^B		108,706		
Total number of acres bonded as of the end of this review period (June 30, 2009) ^B		106,457		
Sum of acres bonded that are between Phase I bond release and Phase II bond release as of June 30, 2009 ^B		3,769		
Sum of acres bonded that are between Phase II bond release and Phase III bond release as of June 30, 2009 ^B		264		
Disturbed Acreage		Acres		
Number of Acres Disturbed during this evaluation year		1,873		
Number of Acres Disturbed at the end of the evaluation year (cumulative)		64,110		
<p>^A Bonded acreage is considered to approximate and represent the number of acres disturbed by surface coal mining and reclamation operations.</p> <p>^B 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.

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, 2008 (end of previous evaluation year) ^A	0		0
Sites with bonds forfeited and collected during Evaluation Year 2009 current evaluation year)	0	\$ 0	0
Sites with bonds forfeited and collected that were re-permitted during Evaluation Year 2009 (current evaluation year)	0		0
Sites with bonds forfeited and collected that were reclaimed during Evaluation Year 2009 (current evaluation year)	0		0
Sites with bonds forfeited and collected that were unreclaimed as of June 30, 2009 (end of current evaluation year) ^A	0		0
Sites with bonds forfeited but uncollected as of June 30, 2009 (end of current evaluation year)	0		0
Surety/Other Reclamation (In Lieu of Forfeiture)			
Sites being reclaimed by surety/other party as of June 30, 2008 (end of previous evaluation year) ^B	0		0
Sites where surety/other party agreed to do reclamation during Evaluation Year 2009 (current evaluation year)	0		0
Sites being reclaimed by surety/other party that were re-permitted during Evaluation Year 2009 (current evaluation year)	0		0
Sites with reclamation completed by surety/other party during Evaluation Year 2009 (current evaluation year) ^C	0		0
Sites being reclaimed by surety/other party as of June 30, 2009 (current evaluation year) ^B	0		0

^A Includes data only for those forfeiture sites not fully reclaimed as of this date

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

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

TABLE 7

State Staffing
(Full-time equivalents at end of evaluation year)

Function	EY 2009
Regulatory Program	
Permit Review	4.70
Inspection	1.95
Other (administrative, fiscal, personnel, etc.)	1.90
Regulatory Program Total	8.55
AML Program Total	4.55
Total	13.10

TABLE 8

**Funds Granted To North Dakota
 BY OSM**
 (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	\$ 719,156	64.00 %
Other Regulatory Funding, if applicable	\$ 0	0.00 %
Subtotal	\$ 719,156	
Small Operator Assistance Program	\$ 0	100 %
Abandoned Mine Land Reclamation Funding ^A	\$ 3,092,166	100 %
Totals	\$ 3,811,322	

^A Includes funding for AML Grants, the Clean Streams Initiative and the Watershed Cooperative Agreement Program.

TABLE 9

**State Inspection Activity
 During Current Evaluation Year**

Inspectable Unit Status	Number of Inspections Conducted	
	Complete	Partial
Active ^A	84	460
Inactive ^A	43	72
Abandoned ^A	0	0
Total	127	532
Exploration	6	0

^A Use terms as defined by the approved State program.

TABLE 10

**State Enforcement Activity
During Current Evaluation Year**

Type of Enforcement Action	Number of Actions ^A	Number of Violations ^A
Notice of Violation	5	5
Failure-to-Abate Cessation Order	0	0
Imminent Harm Cessation Order	0	0

^A Do not include those violations that were vacated.

TABLE 11

Lands Unsuitable Activity

During Current Evaluation Year

	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

**TABLE 12
 Optional**

**Post Mining Land Use Acreage
 (after Phase III bond release)**

Land Use	Acreage Released during this Evaluation Year
Cropland	422
Pasture/Hayland	475
Grazing Land	708
Forest	75
Residential	0
Fish & Wildlife Habitat	1
Developed Water Resources	76
Public Utilities	14
Industrial/Commercial	39
Recreation	0
Other (please specify): undisturbed lands	854
Other (please specify):	0
Total	2,664