

OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

Annual Evaluation Summary Report

for the

Regulatory Program

Administered by the State

of

**NEW MEXICO**

for

Evaluation Year 2003

(October 1, 2002 to June 30, 2003)

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## **I. Introduction**

The Surface Mining Control and Reclamation Act of 1977 (SMCRA) created the Office of Surface Mining Reclamation and Enforcement (OSM) in the Department of the Interior. SMCRA provides authority to OSM to oversee the implementation of and provide Federal funding for State regulatory programs that have been approved by the Secretary of the Interior as meeting the minimum standards specified by SMCRA. This report contains summary information regarding the New Mexico Program and the effectiveness of the New Mexico Program in meeting the applicable purposes of SMCRA as specified in section 102. This report covers the period of October 1, 2002 to June 30, 2003.

The reporting period for State Program evaluation is normally twelve months; beginning on October 1<sup>st</sup> and ending on September 30<sup>th</sup>. However, the reporting period was changed to nine months for 2003 because of a decision by the Office of Management and Budget (OMB) that all performance and accountability reports were due to OMB and Congress by February 1, 2003 and that the due dates for Fiscal Year 2004 reports will be November 15, 2004. In view of these changes, OSM did not believe that there would be sufficient time for completion of all agreed-upon procedures for State submission and finalization of FY 2003 annual performance report data. Accordingly, OSM revised the FY 2003 evaluation year (EY) to nine months, or October 1, 2002 through June 30, 2003, to ensure timely submission of required data. Beginning with Evaluation Year 2004, the reporting period will consist of a full twelve months, beginning on July 1, 2003 and ending on June 30, 2004.

Detailed background information and comprehensive reports for the program elements evaluated during the period are available for review and copying at the Albuquerque Field Office (AFO), OSM.

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

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

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

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

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

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

The New Mexico Oversight Team (NMOT) sent the 2003 Workplan out for comment to 17 public and private agencies and interested parties. Responses were received from two parties; Region 6, United States Environmental Protection Agency and the State Historic Preservation Officer. These comments are summarized below:

EPA stated that they were reviewing the letter for an appropriate response.

SHPO asked to be afforded the opportunity to review any reports of off-site impacts to archaeological sites identified during the oversight period.

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

The purpose of oversight is to evaluate to evaluate a State's or Tribe's ability to accomplish the goals and responsibilities of SMCRA. The NMOT (consisting of OSM and MMD personnel) developed a workplan that governed the oversight of the New Mexico Program for the 2003 evaluation period. The workplan focused on site-specific topics concentrating on the major goals of SMCRA: elimination of off-site impacts and achieving successful reclamation of the post-mining land use. Using the 2003 plan, the Team proactively investigated a number of variables that influence these two goals. Each element was designed to allow expansion in future years based on the information collected during previous oversight periods. The strategic plan adopted was to use oversight to generate ideas for improving regulatory efficiency, and on-the-ground reclamation.

The Team documented problems identified during the course of the oversight period, and addressed them as they arose. The 2003 Topic-Specific Evaluation Report summarizes the methods used, problems identified, and solutions implemented by the Team during the oversight period. This report is on file at AFO. The report provides a summary of the

State's program performance during the oversight period based on the performance measurements described in the workplan, and provides recommendations for future oversight.

Reviewing the annual reports also enabled MMD to collect data on the quality and timeliness of reclamation. The information tabulated by MMD shows that a total 13 operations comprising 98,948 acres were under permit in New Mexico as of September 30, 2003. The program manages those permits in accordance with the requirements of SMCRA and the approved New Mexico Program. Overall, New Mexico is implementing its approved program consistent with the provisions established in Section 102 of SMCRA.

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

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

A. Off-Site Impacts:

MMD conducted 116 partial and 42 complete inspections during the EY. All inspection reports filed for those inspections were reviewed by OSM. These inspections resulted in no enforcement actions and there were no references in any of the reports to any off-site impacts observed. Additionally, no off-site impacts were observed during any of the joint MMD/OSM inspections conducted during the oversight period. An Off-Site Impacts report for the New Mexico Program is on file at AFO.

B. Reclamation Success:

MMD approved 149.39 acres for phase III bond release during this EY. This information is recorded in Tables 5 and 6, Appendix A, of this report.

C. Customer Service:

One Citizen Complaint was received by OSM during the EY. Details of the Complaint can be found in the 2003 Topic-specific Report for New Mexico, on file at AFO.

## VI. OSM Assistance

Oversight for 2003 was conducted jointly by the NMOT, which consisted of MMD and OSM personnel. The mission adopted by the NMOT was to evaluate the State's ability to accomplish the goals and responsibilities associated with the Surface Mining Control and Reclamation Act, using OSM Directive REG-8, and the EY 2003 Workplan as its guidance. The Team investigated variables that influence the major goals of SMCRA: elimination of off-site impacts and achieving successful reclamation that meets the intended post-mining land use. The strategic plan adopted by the NMOT was to use the results of the oversight effort to generate ideas for improving regulatory efficiency and on-the-ground reclamation.

OSM's Office of Technology Transfer (OTT) continued to support MMD's electronic and paperless initiatives. Specifically, OSM spent \$4,345 to purchase ArcPad and ArcPad Application Development kits for MMD's Global Information System initiative.

OSM's Technical Librarian filled one reference request. OTT provided 17 publications in the subject areas of soils, sediment transport, Society of Mining Engineers Mining Reference Handbook, and interim and final Wyoming Abandoned Coal Mine land Research reports, as well as 3 Compact Discs as an addition to the MMD technical library.

OSM provided reclamation bonding technical assistance on the following topics: calculating the value of real property as bonding collateral and procedures for accepting real property; conducted a presentation on coal self-bonding, its legal and financial requirements and the origins of the coal self-bonding financial tests. OSM also provided updates to U.S. Treasury Department's Circular 570 and advice regarding the notices; notified state bonding staff of fraudulent bonds being issued by an illegal Florida agent.

*At the joint Conference of the 9<sup>th</sup> Billings Land Reclamation Symposium and the 20<sup>th</sup> Annual Meeting of the American Society of Mining and Reclamation, MMD presented a paper entitled Reclamation and Bond Release at the Carbon No. 2 Mine in New Mexico: A nationally Recognized Success.*

## VII. General Oversight Topic Reviews

In addition to the required areas of program review OSM and MMD chose one additional areas for review. Details of how these reviews were conducted can be found in the Topic-Specific Report, on file at AFO. The findings are as follows:

### A. Reclamation Success (final pit closures)

OSM and MMD found that both mining operations reviewed were in compliance with the terms and conditions of the approved permit regarding final pit closures.

**APPENDIX A**

These tables present data pertinent to mining operations and State and Federal regulatory activities within New Mexico. They also summarize funding provided by OSM and New Mexico staffing. Unless otherwise specified, the reporting period for the data contained in all tables is October 1, 2002 to June 30, 2003. Additional data used by OSM in its evaluation of New Mexico's performance is available for review in the evaluation files maintained at AFO.