



# Abandoned Mine Reclamation

One of America's most successful environmental programs

**Office of Surface Mining**

2004 Annual Report

**The Office of Surface Mining<sup>1</sup> is a bureau of the U.S. Department of the Interior with responsibility, in cooperation with states and Indian Tribes, to protect citizens and the environment during coal mining and reclamation, and to reclaim mines abandoned before 1977.**

## Who we are

The Office of Surface Mining is a small bureau (about 600 employees nationwide) operating under authority of the Surface Mining Law<sup>2</sup>. The Office of Surface Mining is organized around two requirements: regulating active coal mining and reclaiming abandoned mines. It is a field-oriented organization, with headquarters in Washington, D.C., three regional coordinating centers (in Pittsburgh, Pennsylvania; Alton, Illinois; and Denver, Colorado), eight field offices, and 11 area offices.

The current annual operating budget is approximately \$300 million. That amount enables the Office of Surface Mining to support the states' mining programs by granting funds for their regulation and enforcement and providing training and technical support. It also pays 100 percent of the costs for restoring abandoned mines that were left unreclaimed before the Law was passed in 1977. Funds for reclaiming abandoned mines come from tonnage-based reclamation fees paid by America's active coal mine operators.

The Office of Surface Mining also operates programs to: eliminate impacts of acid mine drainage from abandoned coal mines, encourage reforestation of reclaimed mine land, develop techniques that ensure reclamation of prime farmland soils, and publicly recognize outstanding reclamation by communicating the achievement to others.

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## This year's report

The 2004 Annual Report contains updated descriptions and statistical information about the Office of Surface Mining programs that implement the Surface Mining Law.

This year's report emphasizes abandoned mine land reclamation achievements under the Surface Mining Law. The captioned photos in the portfolio at the end of the Abandoned Mine Land chapter and those used throughout this report show a wide range of reclamation completed across the country over the past 27 years. These photos show a snapshot of reclamation success and foresight that the architects of the Law envisioned in 1977.



This report describes the operations of the Interior Department's Office of Surface Mining for the period October 1, 2003 through September 30, 2004 (Fiscal Year 2004)<sup>3</sup>. To meet the Interior Department's 2004 reporting schedule, some state program performance information was collected for the 12-month period of July 1, 2003 - June 30, 2004<sup>4</sup>. All state program statistics reported for the July-June period are clearly identified and footnoted.

This report was compiled to meet the specific requirements of Section 706 of the Surface Mining Law and Section 306 of the Chief Financial Officers Act of 1990, and includes a summary of results required by the Government Performance and Results Act. Included in the report are activities carried out under several parts of the Surface Mining Law: Title IV, Abandoned Mine Reclamation; Title V, Control of the Environmental Impacts of Surface Coal Mining; and Title VII, Administrative and Miscellaneous Provisions. Surface Mining Law responsibilities of other bureaus and agencies have been omitted because they are reported directly to Congress by the agencies responsible. Those responsibilities include Title III, State Mining and Mineral Resources and Research Institutes program, which was administered by the now abolished U.S. Bureau of Mines; Titles VIII and IX, the University Coal Research Laboratories and the Energy Resource Graduate Fellowships, which are administered by the Secretary of Energy; and Section 406, the Rural Abandoned Mine Program<sup>5</sup> which is administered by the Secretary of Agriculture.

To allow comparison of statistics from year to year, this report contains updated tabular data corresponding to that found in annual reports prepared since 1988. Also, it is organized in sections that correspond to the two principal activities performed by the Office of Surface

**Cover:** Abandoned mine land sites frequently contain a variety of environmental problems. At this 45-acre West Virginia site adjacent to a small town, 11 abandoned underground mine openings were discharging acid water, mountains of exposed coal refuse from an abandoned coal cleaning plant covered the valley floor, and 6,500 linear feet of dangerous highwalls from an abandoned pre-Law surface mine were present. After reclamation, it is difficult to find any traces of past mining or the associated abandoned mine problems. Here, as specified in the Surface Mining Law, use of abandoned mine land funds has resulted in permanently removing mining-related health and safety hazards, leaving the land essentially as it was before mining took place. Since 1977 more than three million linear feet of dangerous highwalls and 16,000 acres of dangerous refuse piles and embankments have been reclaimed.

Mining in implementing the Surface Mining Law, abandoned mine land reclamation and regulation of active coal mines, and two supporting activities, technology development and transfer, and financial management and administration.

Principal distribution of this report is in electronic format. It is available on the Office of Surface Mining web site at ([www.osmre.gov/annualreport.htm](http://www.osmre.gov/annualreport.htm)) and CD-ROM. The CD contains all Office of Surface Mining Annual Reports (1978-2004), and two short video presentations showing 2004 active and abandoned mine award winning reclamation. In addition, active web links to more detailed information are available when using the electronic version of the report. Printed copies of this Annual Report are also available and will be distributed to the public upon request.

For information about Office of Surface Mining activities, news releases, publications, or to request printed copies of this report, visit the Office of Surface Mining web site at [www.osmre.gov](http://www.osmre.gov) or contact:

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1. The Office of Surface Mining Reclamation and Enforcement (OSMRE).
2. Public Law 95-87, Surface Mining Control and Reclamation Act of 1977 (SMCRA).
3. Throughout this document "2004" refers to Fiscal Year 2004 (10/1/03 - 9/30/04) unless otherwise noted.
4. Statistics for the fourth quarter (July 1, 2003 - September 30, 2003) are included in state program data reported in both the 2003 and 2004 Office of Surface Mining Annual Reports.
5. Administered by the Natural Resources Conservation Service (formerly the Soil Conservation Service) under the U.S. Department of Agriculture. The Rural Abandoned Mine Program is primarily aimed at addressing health, safety, and environmental problems posed by surface mining operations in rural areas. A total of \$196 million has been appropriated from the Abandoned Mine Land Fund for this program; however, no funds have been appropriated since 1995.

# Introduction



# A message from

# *Office of Surface Mining Director Jeffrey Jarrett reports on accomplishments achieved during 2004 and sets out future directions for abandoned mine land reclamation*

It has been 27 years since passage of the Surface Mining Law. Land reclamation and environmental protection have become a routine part of the coal mining process. In addition, a large number of mine sites abandoned prior to the passage of the Surface Mining Law have been reclaimed, protecting the lives and health of millions of Americans living and working in the coal fields.

Accomplishments over the past 27 years include reclamation of more than 190,000 acres of abandoned coal mine sites and over 5.5 million acres of land were permitted and mined in compliance with the environmental protection standards of federal and state law. The mining industry has produced more than 25.2 billion tons of coal during that time providing half of our nation's electricity and helping fuel our nation's leadership of the global economy.

This annual report provides an opportunity to review the Office of Surface Mining's key issues and achievements in 2004. While we have faced critical challenges this year, we are proud to report on the significant strides forward we have made.

Clearly our greatest challenge in 2004 has been the looming expiration of the Office of Surface Mining's authority to collect the abandoned mine land reclamation fee. For nearly two years, we have been working with stakeholders not just on reauthorizing the abandoned mine land reclamation fee collection authority, but on making the Abandoned Mine Land Program more effective and efficient. Through this effort, we have approached reauthorization with four

**Photo to left:** An Illinois mining company assumed reclamation and water treatment responsibility for past mining problems when it purchased this 8,000-acre mine in 1967. This abandoned mine was often referred to as the nation's worst example of pre-Surface Mining Law acid soil and water problems associated with surface coal mining. To meet Environmental Protection Agency discharge standards, a plant was constructed to treat 3.5 million gallons of acid mine drainage each day. However, without reclamation to eliminate the sources of acid runoff, costly treatment would be a continuing problem. In the early 1980's reclamation of this abandoned mine began as the nation's largest mined-land wetland reclamation effort. Today, the result is often described as the nation's best example of wetland and wildlife development on surface-mined land.

simple goals: 1) to extend authorization for collection of fees on coal production to fund the reclamation of lands and water damaged by past coal mining practices; 2) to revise the Abandoned Mine Land Reclamation Program to focus on coal-related sites that present a danger to public health or safety; 3) to honor commitments made to states, tribes and the unassigned beneficiaries of the United Mine Workers Combined Benefit Fund; and 4) to provide for enhancements, efficiencies and the effective use of abandoned mine land funds.

## **Reauthorization**

In February of 2004, I was proud to stand with Secretary Norton and unveil the Administration's proposal to accomplish these goals. The Administration's bill, sponsored by Sen. Arlen Specter (Pennsylvania) and Rep. John Peterson (Pennsylvania), would allow us to complete the job of reclaiming high-priority health and safety-related abandoned coal sites, and complete them sooner, getting more people in the coalfields out of danger in less time. The bill calls for providing additional funding for health care benefits for unassigned beneficiaries in the United Mine Workers Combined Benefit Fund (the 17,000 beneficiaries covered under the Combined Benefit Fund that were the responsibility of companies that no longer exist). The bill honors the commitments made in the past and returns 50 percent of the fees collected to date to the states and tribes. The bill also provides for other efficiencies and for a more effective Abandoned Mine Land Program. Finally, the bill would accomplish these feats at a cost savings of \$3.2 billion.

The Administration did more than just talk about a plan, it backed it up with a budget. To support this legislation, the President requested a record increase of \$53 million for the Abandoned Mine Land Program in his 2005 budget proposal - the largest funding increase since states established their abandoned mine land programs.

# the Director

While the Administration bill provides an effective and cost-efficient solution to the issues, several other bills have been introduced which encompass the Administration's fundamental goals while differing in the methods to achieve these goals. Those bills have been the subject of various Congressional hearings and countless discussions. Nevertheless, the scheduled deadline of September 30 came upon us without a resolution.

To insure that benefits were not cut off to retired miners and their families that are beneficiaries of the United Mine Workers of America Combined Benefit Fund, we took the steps of establishing new fee rates to become effective upon the expiration of the current reclamation based abandoned mine land fees. Under the Surface Mining Law, once the Office of Surface Mining's authority to levy a fee for reclamation ceases, the authority to establish a fee that would continue the transfer of funds to the Combined Benefit Fund goes into effect. With the deadline approaching, the new fee rate was published in the form of a final rule to avoid any lapse in benefits. However, we also published a companion proposed rule to solicit comment from the public on the new fee structure.

In the final hours, discussions emerged in both the Senate and the House to extend the Abandoned Mine Land fee collection authority. As of the date of this writing, a proposed nine month extension of the current abandoned mine land fee authority is pending before the Senate as part of the Department of the Interior's appropriation bill and a similar provision is anticipated to be taken up in the House of Representatives. However, since the Interior Department's appropriations have not been passed, a continuing resolution is in effect to continue to fund governmental operations. A specific extension of the abandoned mine land fee collection authority was made part of the continuing resolution, keeping the current authority and fee rates in place through the expiration of the continuing resolution. As a result of this action, the new Combined Benefit Fund-based fee rate will be held in abeyance pending formal action on the Abandoned Mine Land Program to reauthorize or extend the current abandoned mine land fee collection authority.

The continuing resolution demonstrates that Congress recognizes the importance of the Abandoned Mine Land Program and the work that remains to be completed. I am hopeful that this spotlight placed on the Abandoned Mine Land Program will serve as a catalyst for more intense discussions on reasonable

and equitable steps forward in addressing these problems and protecting the health and safety of those at risk by putting money where the problems are and finishing the job.

While working toward abandoned mine land reauthorization required a significant effort on the part of this agency, we did not lose focus on other important elements of our program.

## **Innovation and Applied Science**

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The Office of Surface Mining has demonstrated its commitment to protecting the health, safety, and environment for the people who live and work in coalfield communities. Through technical assistance, transfer of technology, and training, the Office of Surface Mining provides states, Indian tribes, federal agencies, and the coal industry with the technical information and tools they need to carry out their responsibilities under the Surface Mining Law. This year saw the emergence of our National Technical Transfer Team as well as widely attended and praised national and regional workshops and forums on beneficial geographic information systems applications, coal combustion by-products, and the protection of bats.

## **Regulatory Stability**

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This year we continued to take steps to protect the environment while ensuring an affordable, reliable energy supply by working towards regulatory stability. A stable regulatory program provides certainty so that coal companies know what is expected of them and citizens know what is intended and how they can participate. Our new approach to rulemaking relies heavily on nationwide rulemaking teams composed of subject matter experts. The lead for each rulemaking is located in the region where the issue being dealt with is most prominent. This year we proposed regulations to address areas of concern that have arisen during the course of implementing the Office of Surface Mining's regulatory program. The regulations which are currently under development will increase administrative efficiency and promote practices which minimize or mitigate environmental damage while maintaining coal production.

Achieving stability also requires defending past actions when they are appropriate. This year, an important Office of Surface Mining regulatory rule remained intact following a U.S. Supreme Court decision not to review a lower court's decision to uphold the

Secretary's rule interpreting subsidence from underground mining not as falling within the scope of the term "surface coal mining operations" as defined in section 701(28) of the Surface Mining Law (*Citizens Coal Council v. Norton*, No. 02-5136 (D.C. Cir.)).

## Oversight

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In 2003, the Office of Surface Mining stepped in to takeover partial control of Missouri's regulatory program because the state was unable to meet the standards of the Surface Mining Law. On May 25, 2004, the Office of Surface Mining notified the Missouri Regulatory Authority that based on its proposed financial and organizational plan, the current federal substitution plan would continue for another year (July 1, 2004 through June 30, 2005).

The Office of Surface Mining, in conjunction with state regulatory authorities, successfully ensured that cleanup will be addressed at about 425 coal mine sites in five states despite the bankruptcy of Horizon Natural Resources Company, reportedly the largest coal bankruptcy in U.S. history.

A bankruptcy is never good news and there are a lot of unresolved issues surrounding this one that may negatively impact people's jobs, health benefits, and lives, but I am pleased that the Office of Surface Mining was able to successfully ensure that reclamation will occur. These mines will be restored to use and not become an additional negative impact on people's lives. Without this settlement, many of these mines would have presented lingering hazards to people's health and safety.

## Good Neighbor Awards

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This year we presented our second annual "Good Neighbor Awards" to recognize coal operators for their outstanding cooperative efforts in working with their communities. This well received program builds upon our long standing and highly coveted national reclamation awards and honors coal operators for exemplary interaction, communication, and involvement with the surrounding land owners and local community. Establishment of good working relations and interaction with mine neighbors is an important element of the Surface Mining Law that mine operators are achieving in many different ways.

## Supporting Organization of the Year

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Communicating, cooperating, and consulting all in the service of conservation continues to guide activities at the Office of Surface Mining. This year we were proud to have been named "Supporting Organization of the Year" for 2003 by the National Association of Resource Conservation and Development Councils. The award is the highest recognition given by the Association and recognizes the leadership role the Office of Surface Mining has taken in its work with the Resource and Conservation Districts community, specifically the Black Diamond Resource and Conservation District Council, which coordinates community improvement projects across six counties in the coal country of southwestern Virginia. Resource and Conservation Districts are nonprofit organizations supported by the U.S. Department of Agriculture. The Office of Surface Mining won the Virginia state award last year after being nominated by Black Diamond Resource and Conservation District. Black Diamond recognized the Office of Surface Mining "for its innovation and spirit, its outreach and team building, and its commitment to local partnerships."

## Reforestation Initiative

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A state/federal team led by the state regulatory authorities and the Office of Surface Mining is working to get more high-value hardwood trees planted on reclaimed coal mined lands in Appalachia. The Appalachian Regional Reforestation Initiative will make use of partnerships between the Office of Surface Mining, state regulatory authorities, academia, other government agencies, private groups, coal industry, and land owners to reduce barriers to reforestation and provide assistance and encouragement to get more quality trees planted correctly on mined lands.

Since its creation, the Office of Surface Mining has played a vital role in achieving important developments to protect the health and safety of our citizens and shepherd America's coal production in a consistent, fair and environmentally sound manner. The dedicated employees of the Office of Surface Mining family remain committed to fulfilling our mission, improving the lives of Americans who live in and around coal fields as well as protecting the benefits every American enjoys from this vital resource.