

**Annual Report of the
U.S. Department of the Interior
Office of Surface Mining**

Fiscal Year 1990



United States Department of the Interior

Manuel Lujan, Jr., Secretary of the Interior

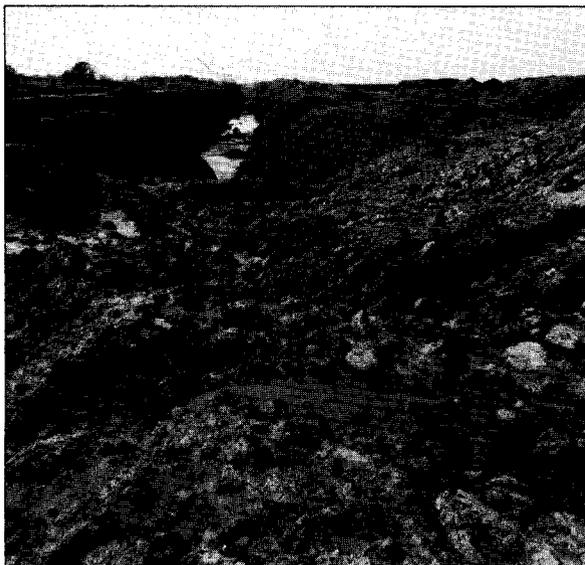
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(COVER PHOTO) Reclaimed mine land at the Texas Utilities Mining Company, Monticello-Winfield North lignite mine, near Mount Pleasant, Texas. Looking much like unmined land in the area, this 439 acre post-mining pasture land of coastal bermuda grass has yielded 1.4 tons/acre forage production and has supported 94 cattle/year since grazing was begun in 1983. During mining the reclaimed land shown on the cover resembled the scene in the photo to the left. With seven mines producing more than 29 million tons of coal per year, the Texas Utilities Mining Company is one of the country's largest. Since mining began in 1971, approximately 24,000 acres have been mined and reclaimed by Texas Utilities.

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**United States Department of the Interior
Office of Surface Mining Reclamation and Enforcement
Washington, D.C. 20240
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1. INTRODUCTION

This report was compiled for the President and the Congress as required by Section 706 of the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The report describes the operations of the Interior Department's Office of Surface Mining Reclamation and Enforcement (OSM) for the period October 1, 1989, through September 30, 1990 -- fiscal year 1990¹. Included in this report are activities regarding Title IV, Abandoned Mine Reclamation; Title V, Control of the Environmental Impacts of Surface Coal Mining; Title VI, Designation of Land Unsuitable for Noncoal Mining; and Title VII, Administrative and Miscellaneous Provisions.

SMCRA responsibilities of other bureaus or agencies are omitted from this report. These responsibilities include Title III, the Mining and Mineral Research Institutes Program, which is administered by the 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 (RAMP), which is administered by the Secretary of Agriculture. Information about these activities is reported directly to Congress by the organizations responsible.

The report format is similar to the combined 1988-89 OSM annual report. However, it differs in appearance from earlier OSM annual reports, which were written not only to meet the reporting requirement to Congress, but also for general distribution to the public. This report, containing current data and only brief background information, was prepared primarily for the President, the Congress, and the State regulatory authorities. The condensed format and more specific focus have resulted in publication cost savings and strict adherence to the standards of the Joint Committee on Printing for federal agency annual reports. The information in this report is organized to facilitate either an examination of specific elements or a review of the entire program.

Section 2 summarizes OSM's principal accomplishments and outlines the issues confronting the agency during 1990. Although these are further described with text and statistics in the body of the report, they are presented here to give the reader both an overview and summary of OSM's activities during the past fiscal year.

Sections 3 through 6 describe OSM's administration of the SMCRA Regulatory and Abandoned Mine Land Programs. Statistics are provided in tabular form. Where appropriate, graphs show current and historic levels so

that trends since the beginning of the program can be easily followed.

Section 7 lists citations of OSM technical publications reports and video programs developed during 1990. This eliminates extraneous text and should aid readers requiring more detailed information about OSM operations. Some of these materials are unpublished; however, machine copies are available from OSM on request.

Section 8 provides a directory of the 32 OSM office locations.

Information about OSM activities, news releases, and publications, or additional copies of this report, may be obtained from:

Public Affairs
Office of Surface Mining
1951 Constitution Ave., NW
Washington, D.C. 20240
(202) 208-2553

1. Throughout this document, "1990" refers to FY 1990, unless otherwise noted.

2. EXECUTIVE SUMMARY

A new director and management team made 1990 a significant year for OSM. Much of the year's success can be attributed to two things: first, a new management philosophy for solving OSM's problems--one that defines and analyzes the issues with the goal of solving them; and, second, the resolution of some long-standing problems that had slowed OSM's progress toward full implementation of the Surface Mining Act. In the past, the continued inability of OSM to address sensitive issues effectively fueled frequent, protracted litigation, in addition to contributing to a major credibility problem for the agency. In 1990, OSM involved interested parties in rulemaking activities by moving toward the consensus necessary to issue rules that should be less subject to legal challenge. The following are the principal areas where OSM expended major effort during 1990:

VALID EXISTING RIGHTS (VER)

From the beginning, OSM's efforts to define valid existing rights to mine in protected areas has been fraught with controversy. In 1990 a new approach was developed to deal with VER.

In April, OSM held a symposium on VER in Washington D.C.--a cooperative effort with the American Bar Association and the Mineral Law Center of the University of Kentucky. The symposium examined the political, policy, and legal aspects of VER. Noted legal scholars, judges, and representatives of both the coal industry and national environmental associations participated in a forum for the discussion of ideas and proposals for dealing with VER. This exchange prepared the groundwork for development of a policy on VER; a rule designed to balance environmental concerns with private property rights will be proposed in 1991.

RULEMAKING RESULTING FROM SAVE OUR CUMBERLAND MOUNTAINS AGREEMENT

OSM is currently developing draft rule language to implement the January 1990 agreement settling litigation with the environmental organization Save Our Cumberland Mountains over the operation of the computerized Applicant Violator System (AVS). The AVS is intended to track operators with uncorrected violations so that OSM can block them from receiving additional permits. The new rules establish the State regulatory authorities' responsibility to query the AVS computer system and implement procedures that give permit applicants the opportunity to rebut ownership and control links. In addition, OSM is undertaking rulemaking to provide for the assessment of

individual civil penalties against people who have been served notices of potential liability and who have not demonstrated that they have taken all reasonable steps to effect abatement of violations.

TECHNICAL STANDARDS FOR BACKFILLING AND GRADING, MULTIPLE SEAM MINING, AND MOUNTAINTOP REMOVAL

OSM is also taking a different approach to rulemaking on other important and complex issues. Since March 13, 1979, when permanent program regulations were issued, OSM has operated without contemporaneous reclamation standards applicable to backfilling and grading, multiple seam mining, and mountain top removal performance standards.

Instead of beginning by proposing a rule, OSM conducted an outreach effort that began with a Notice of Inquiry in the Federal Register in April 1990. The Notice described both the problems and the principles under which OSM thought the problems should be solved. Technical staff presented information at meetings in Charleston, West Virginia, and Knoxville, Tennessee.

OSM also utilized the Mine Safety and Health Administration's open-channel broadcast system. In May 1990, OSM presented a two-hour session that included a statement by the Director, a videotape of representative sites, and presentations by OSM's technical staff. Viewers tuned in via satellite dish and were able to call a toll-free number to comment on what they thought rules should include or to ask questions about the topics. There was a good response to this interactive broadcast.

WETLANDS

The creation of wetlands is a cornerstone of President Bush's environmental policy. As an integral part of this policy, OSM has reviewed its regulations as they apply to wetlands, and is analyzing how permitting and bonding rules can be revised to encourage the creation of wetlands as a postmining land use. Outreach on wetlands issues with environmental groups, industry, and State and federal agencies is currently being completed, and proposed rule changes are expected early in 1991.

ABANDONED MINE LAND RECLAMATION FUND REAUTHORIZATION

OSM, through the Administration, supported reauthorization. Within the Department of the Interior, work on proposed legislation to develop an Administration recommendation for the Congress was being completed at the time Congress enacted a three-year extension of the program.

TECHNOLOGY TRANSFER

State regulatory authorities have shown great interest in technology transfer, an area that demonstrated continued progress in 1990. During the year OSM sponsored a number of initiatives to further the exchange of technical information, and technical reports and articles resulting from OSM research projects were catalogued by the technical libraries located in OSM's Washington, D.C., Pittsburgh, and Denver offices.

Since October 1989, OSM has sent the results of 204 research projects to the National Technical Information Service (NTIS) for inclusion in its collection. These reports account for virtually all of OSM's Title V research projects. Results of Title IV research projects are now also being sent to the NTIS.

One of OSM's major technology transfer initiatives is the Technical Information Processing System--TIPS. TIPS is a technical and scientific computer system developed by OSM to provide surface coal mine regulators with analytical tools that can help them make technically sound decisions. TIPS provides analytical capabilities for a full range of engineering, hydrologic, and scientific applications required in mine permitting, abandoned mine land reclamation, and related projects. TIPS work stations are now located in all the primacy States.

OVERSIGHT

During the past year, OSM successfully concluded the prototype experiment of State internal controls and data collection and management systems, and conducted reviews of overall reclamation success in the four test States of Alabama, Illinois, Pennsylvania, and Wyoming. In addition to existing requirements, most aspects of the prototype experiment will be continued on a routine basis.

In 1990, OSM continued efforts to develop more meaningful and objective oversight measurement techniques. States were encouraged to develop management systems and internal controls to monitor and enhance their own performance.

In 1990, OSM modified and expanded the tabular data requirements of the annual evaluation report to consolidate agency data reporting requirements, improve accuracy and national consistency, respond to Congressional appropriation language, and meet internal and external needs. In addition, OSM expanded the opportunities for State and tribal comments on the various draft versions involved in developing the official annual evaluation reports. A more complete, user-friendly format for the annual evaluation reports was developed by encouraging the use of graphics and by requiring inclusion of an explanatory preface, a discussion of all previously unresolved problems, and an appendix containing the critical program element review schedule.

REORGANIZATION

In 1990, OSM completed a review of its existing organizational structure and made changes that will significantly improve the agency's ability to achieve its mission. These are relatively minor changes compared with past OSM reorganizations, and the focus was on ensuring consistent application of policies across the Nation.

One of the most significant aspects of the reorganization was a change in the reporting relationship between OSM Headquarters and the field. Field office directors will have increased accountability for decisions in their areas of responsibility and will report directly to a new Assistant Director for Field Operations in Washington rather than through OSM's field support centers in Pittsburgh and Denver. OSM's Pittsburgh and Denver offices will continue to support the field offices and the States by providing technical expertise. These organizational changes are expected to result in improved responsiveness to States' needs.

1990 has been a year of achievement, stability, and new management direction. This new direction is best summed up in a statement by OSM Director Harry Snyder: "There is a tendency to judge OSM administrations in terms of whether they sided with the coal industry or the environmental community. I'm afraid those kinds of judgments will continue to be made. But I sincerely hope that our efforts will be viewed in a more balanced light. The only side we want to be on is the side of fair and equitable achievement of the goals of the Surface Mining Act."