

## CHAPTER 4-160 ENVIRONMENTAL COMPLIANCE

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### **4-160-00 What does this chapter do?**

This chapter presents the Office of Surface Mining Reclamation and Enforcement (OSMRE) responsibilities for compliance with the National Environmental Policy Act of 1969 (NEPA) and related environmental laws, regulations, and executive orders.

### **4-160-10 Do these requirements apply to you?**

These responsibilities apply to the Abandoned Mine Lands (AML) Reclamation program and any other reclamation or construction projects. For Title IV grants to certified states and tribes, this chapter applies only to coal reclamation projects under 30 CFR Part 874, and to projects supported with state or tribal share funds distributed before FY 2008.

### **4-160-20 How do we define the terms used in this chapter?**

The following definitions are critical to the understanding of this chapter.

- A. Authorization to Proceed (ATP). (See [Exhibit 3](#) and [Exhibit 6](#) at the end of this chapter.) A formal notification from an OSMRE Regional Director (RD) or authorized official that a National Environmental Policy Act (NEPA) review is complete and the state/tribe may proceed with project construction using AML grant funds. For all other AML grant activities the point of Federal action will be at the grant award. See chapter [4-170](#) for more information on the ATP process.
- B. Categorical Exclusion. (See [Exhibit 1](#) and the instructions at [Exhibit 2](#).) A category of actions which do not individually or cumulatively have a significant effect on the human environment and for which neither an environmental assessment or an environmental impact statement is required. For purposes of AML construction activities, the following projects can be excluded: AML reclamation projects involving no more than 100 acres; no hazardous wastes; no explosives; no hazardous or explosive gases; no dangerous impoundments; no mine or refuse fires; no undisturbed, non-commercial borrow or disposal sites; no dangerous slides where abatement has

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the potential for damaging inhabited property; no subsidence involving the placement of material into underground mine voids through drilled holes to address more than one structure; and no unresolved issues with agencies, persons, or groups or adverse effects requiring specialized mitigation. Departmental Manual (DM) exceptions in 516 DM 2, Appendix 2 apply to this exclusion.

1. Categorical Exclusion Certification. A finding that the information provided on Exhibit 1 is accurate and complete.
  2. Categorical Exclusion Determination. A finding by the responsible OSM official that the information provided pursuant to Exhibit 1 does or does not conform to the exclusion criteria in 516 DM 6, Chapter 13.
- C. Environmental Assessment (EA). (See [Exhibit 3](#).) A brief public document, prepared pursuant to 40 CFR 1508.9, that analyzes the effects the proposed project might have on the human environment for the purpose of determining whether the project might be expected to cause significant impacts, which would result in the need to prepare an Environmental Impact Statement (EIS), or to aid in the agency's compliance with NEPA if an EIS is found not to be required.
- D. Environmental Document. An EA, an EIS, a Finding of No Significant Impact, and a Notice of Intent to prepare an EIS (40 CFR 1508.10) are environmental documents. For the purposes of this chapter, a Categorical Exclusion Determination is also an environmental document.
- E. Environmental Impact Statement (EIS). A detailed statement prepared pursuant to section 102(2)(C) of NEPA and the implementing regulations (40 CFR 1500).
- F. Finding of No Significant Impacts (FONSI). (See [Exhibit 5](#).) A document prepared pursuant to 40 CFR 1508.13 which briefly presents the reasons why a proposed AML project, not otherwise excluded (by categorical exclusions), will not have a significant effect on the human environment and for which a detailed EIS will not be prepared.
- G. Notice of Intent (NOI). A notice published in the Federal Register, that OSMRE intends to prepare an EIS for the proposed project.
- H. Point of Federal Action. For purposes of construction activities under the AML program, the Point of Federal Action is the authorization to proceed with site specific activities following completion of the NEPA review.

### **4-160-30 When during project development should NEPA evaluations be done?**

Completion of NEPA evaluation and review responsibilities must occur prior to the point of Federal action. For the purposes of AML construction activities, NEPA evaluations will be prepared early enough so that they can serve practically as an important contribution to the decision making process and will not be used to rationalize or justify decisions already made. For example, NEPA evaluations must occur prior to

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the acquisition of real property, commitment to a final plan of action, or any other actions which limit the choice of reasonable alternatives.

### **4-160-40 Who is responsible for environmental compliance?**

#### **A. OSMRE Awarding Office**

1. Our awarding office is responsible for the environmental document for each proposed project. The state or tribal agency may prepare the document, but the awarding office must ensure that each document prepared by the state/tribe is adequate under NEPA and related requirements. The awarding office is also responsible for developing a process to verify the accuracy of information and the implementation of commitments made in the environmental document (40 CFR 1506.5).
2. The Regional Director (RD) or authorized official signs the FONSI or the Categorical Exclusion Determination and issues an authorization for the state/tribe to proceed with project activities.
3. The RD or authorized official, as an official of the responsible Federal agency, carries out certain consultations with other Federal agencies, required by law, when necessary. (For example, OSMRE must consult with the U.S. Fish and Wildlife Service when the proposed project may adversely affect a Federally listed species.)
4. The RD or authorized official is responsible for ensuring that all environmental documents are made available to the public as required by 40 CFR 1506.6.

#### **B. State or Tribal Agency**

1. The state or tribal agency may prepare the appropriate environmental document for each proposed project.
2. If the state or tribal agency prepares the environmental document, it also conducts initial consultations, where appropriate.

### **4-160-50 What procedure will we use for environmental compliance reviews?**

- A. Consultations. The awarding office reviewer will assist the state or tribal agency (if the state or tribe elects to prepare the environmental document under section 4-160-40B) in carrying out any required consultations with agencies having jurisdiction over potentially affected resources. It is important to start as early as possible so that results of any required consultations can be incorporated into the environmental documents. An early start also facilitates the development of mitigation measures for consideration.

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B. Preparation of Environmental Document. The following procedures apply when an environmental document is to be prepared by the state or tribe. If the state or tribe chooses not to prepare the environmental document, the OSMRE awarding office carries out these procedures.

1. The state/tribal agency should review the site and determine what resources or concerns could be affected and what special procedures are needed (see [Exhibit 4](#) for a list of resources or concerns that may be affected).
2. The state/tribal agency should then decide, based on the following criteria, what kind of environmental document should be prepared.
  - a. A categorical exclusion certification may be prepared if the proposed project meets the criteria specified in 516 DM 6, Chapter 13, and outlined in Exhibit 1.
  - b. An environmental assessment may be prepared if the proposed project does not qualify for a categorical exclusion.
  - c. An EIS is required if the proposed project would have significant impacts on one or more of the resources or concerns listed in [Exhibit 4](#). If the State/Tribal agency finds that significant impacts could be expected from any proposal, the agency consults with the awarding office reviewer on preparing an EIS.
3. The state/tribal agency then prepares the required environmental document (see recommended format provided in Exhibit 1 or Exhibit 4, as appropriate), incorporating information gained as a result of the consultations and field surveys. If the document is an EA, the state/tribal agency may also prepare a draft FONSI (see recommended format provided in [Exhibit 5](#)).
4. The state/tribal agency sends the completed environmental document to the appropriate awarding office for review.
5. The state/tribal agency monitors the reclamation project to ensure that all activities conform to the approved environmental document. If reclamation activities are altered or if new environmental circumstances are encountered, the state/tribe must review the existing categorical exclusion determination, EA, or EIS.

If the new project activities or environmental circumstances are not in conformance with the criteria specified in 516 DM 6, Chapter 13, and as outlined in [Exhibit 2](#), the categorical exclusion is no longer applicable. In those cases where the existing environmental document no longer accurately describes project activities or conditions, the state/tribal agency will contact the awarding office for additional guidance.

C. NEPA Compliance in the Emergency Program. An emergency is declared by the RD or authorized official through the signing of a Finding of Fact. This should be done within 48 hours of receipt of information described in chapter [4-120-60](#). AML projects declared emergencies

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pursuant to Section 410 of the SMCRA are subject to NEPA and the requirements and procedures outlined in this chapter. The authorization by the Council on Environmental Quality (CEQ) at 40 CFR 1506.11 to abate emergency conditions without preparing an environmental document does not relieve OSMRE or the states/tribes of the responsibility to complete consultation duties or obtain necessary permits in accordance with other Federal, state and local laws. It may be necessary to negotiate special consultation procedures for emergency actions to accelerate the review with other resource agencies.

1. The responsible project officer should evaluate the proposed emergency project and determine if the environmental document [environmental assessment, categorical exclusion determination, or Environmental Impact Statement] can be completed before the abatement action must be initiated. If site conditions do not require immediate abatement, sufficient time exists to make the required NEPA finding. Consultations must be completed and the appropriate environmental document must be prepared. The completed document should be submitted to the awarding office with the state Investigation Report. (See Exhibits 1, 2, and 4) The RD or authorized official will review the environmental document and, if appropriate, issue a Categorical Exclusion Determination, or Finding of No Significant Impact (FONSI). The RD will then issue an Authorization to Proceed, in conjunction with the Finding of Fact/Funding Authorization.
  
2. Where emergency circumstances at the site require immediate abatement action, and the environmental document discussed in this chapter cannot be completed prior to the initiation of that action, OSMRE and the states are authorized to act, but the abatement action taken must be limited to that necessary to control the immediate impacts of the emergency. The following procedures are applicable:
  - a. Consultations with other state, Federal, and local interests must be completed as required by law or approved program procedures.
  
  - b. Specific findings or permitting responsibilities relative to the National Historic Preservation Act (see Directive AML-4, Appendix 10); Endangered Species Act, Clean Water Act and other applicable environmental statutes must be completed.
  
  - c. The awarding office must make a determination whether the emergency abatement action may result in a significant environmental impact. This determination must be based upon the results of the above consultations/findings, and the best site and abatement information available. In addition, the determination must include an explanation of why an abatement action has to be taken without preparation of an environmental document. The determination should be included in the finding of fact or other similar review document prepared by the awarding office in support of a Declaration of Emergency.
  
  - d. Any action with a potentially significant environmental impact that must be taken to respond to an emergency without complying with NEPA must be brought to

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the immediate attention of the CEQ. For these situations, the awarding office, concurrent with the action being taken, must notify the Branch of Environmental and Economic Analysis which will coordinate with the Department's Office of Environmental Affairs and the CEQ as per 516 DM 5.8, and 40 CFR 1506.11. CEQ may require follow-up site activities and documentation.

- e. Actions which remain to be taken at the site of an emergency after the abatement of the immediate impacts require the preparation of an environmental document.

Please consult Directive AML-4 and REG-1 (OSMRE's *NEPA Handbook*) for additional information regarding the emergency program and NEPA compliance.

### D. Review.

1. The awarding office will conduct a systematic review to determine adequacy of the environmental document. This review may include a site visit to verify the accuracy of information in the document.
2. Any issues raised during review of the document should be resolved with the State/Tribe through telephone conversations, meetings or site visits.
3. If the document is adequate, the RD or authorized official signs the FONSI or Categorical Exclusion Determination, and notifies the State/Tribal agency that NEPA review is complete and that the State/Tribe is authorized to proceed with the project. The awarding office will issue an Authorization to Proceed within 14 working days from receipt of the request, or provide reasons why the action cannot be completed. Some factors affecting the awarding office's ability to meet the time schedule include compliance with consultation and coordination requirements and adequacy of the environmental document.
4. If the environmental document is not adequate, the awarding office may return the environmental document to the state or tribe with the reasons why it is not adequate, or may supplement the document as needed to make it adequate.
5. The awarding office will select AML projects to inspect during and after construction to confirm the implementation of any commitments or stipulations stated in the environmental document.

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**EXHIBIT 1**

**ABANDONED MINE LANDS  
CATEGORICAL EXCLUSION DETERMINATION**

State: \_\_\_\_\_

PA #

Project Name:

Project Description:

**Yes responses require submission of an environmental assessment.**

<b>I. GENERAL EXCEPTIONS</b>
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Does the project type specifically require an EA in 516 DM 6, Chapter 13, as specified in Item I of the attached instructions?

No [ ] Yes [ ]

<b>II. DEPARTMENT OF INTERIOR EXCEPTIONS</b>
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Will the project have any of the following:

A significant adverse effect on public health or safety?

No [ ] Yes [ ]

An adverse effect on any of the following unique geographic characteristics?

No [ ] Yes [ ]

If yes, check the ones that apply.

- Parks (State, Local, or National)
- Wild or Scenic Rivers
- Recreation or Refuge Lands
- Wetlands
- Wilderness Areas
- Floodplains
- Ecologically Significant or Critical Areas
- Sole or Principal Drinking Water
- Prime Farmland
- Aquifers

Highly controversial environmental effects?

No [ ] Yes [ ]

Highly uncertain and potentially significant environmental effects or unique or unknown environmental risks?

No [ ] Yes [ ]

A precedent for future action or a decision in principle about future actions with potentially significant environmental effects?

No [ ] Yes [ ]

Directly related to other actions with individually insignificant but cumulatively significant environmental effects?

No [ ] Yes [ ]

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Adverse effects on properties listed or eligible for listing on the National Register of Historic Places?

No [ ] Yes [ ]

Adverse effects on species listed or proposed to be listed on the List of Endangered or Threatened Species, or have adverse effects on designated Critical Habitat for these species?

No [ ] Yes [ ]

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Require compliance with Executive Order 11988 (Floodplain Management), Executive Order 11990 (Wetlands Protection) or The Fish and Wildlife Coordination Act?

No [ ] Yes [ ]

Threaten to violate a Federal, State, Tribal or local law or requirement imposed for the protection of the environment?

No [ ] Yes [ ]

**III. RESOURCE IMPACT EXCEPTIONS**

Are there any unresolved issues, or adverse effects requiring specialized mitigation, for any of the following resources? If yes, check the ones that apply.

No [ ] Yes [ ]

- Topography
- Land Use (includes prime farmland)
- Soils
- Vegetation (includes wetlands)
- Hydrology
- Fish and Wildlife
- Historic and Cultural
- Recreation
- Air Quality
- Noise
- Other (includes socioeconomics)

**IV. ATTACH CONSULTATION LETTERS AND A LOCATION MAP**

**V. RESPONSIBLE OFFICIAL CERTIFICATION**

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Name and Title: \_\_\_\_\_

**VI. OSMRE DETERMINATION**

- This project conforms with the exclusion criteria in 516 DM 6, Chapter 13, and is excluded from further NEPA compliance.
- This project does not conform with the exclusion criteria in 516 DM 6, Chapter 13, and requires an environmental assessment.

OSMRE Reviewer Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Name and Title: \_\_\_\_\_

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Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Name and Title: \_\_\_\_\_

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### EXHIBIT 2

#### INSTRUCTIONS FOR CATEGORICAL EXCLUSION DETERMINATION

The attached checklist is used to determine if an abandoned mine land project funded through Title IV of the Surface Mining Control and Reclamation Act (SMCRA) is eligible for a categorical exclusion under the National Environmental Policy Act (NEPA). A yes answer to any question means that the project is not eligible and requires preparation of an environmental assessment. Additional guidance in complying with NEPA is found in the OSMRE NEPA Handbook.

A brief description of the project using AML Inventory keywords is required for the title block.

<b>I. GENERAL EXCEPTIONS</b>
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Abandoned Mine Land projects that include any of the following problems, situations, or activities require an EA.

1. Subsidence projects involving the placement of any material into underground mine voids through drilled holes to address more than one structure.	6. Undisturbed, non-commercial borrow or disposal sites.
2. Mine fires and refuse fires.	7. Hazardous wastes as defined by EPA.
3. Hazardous or explosive gases. For instance, projects involving the venting of methane or carbon dioxide.	8. The use of explosives.
4. Dangerous impoundments, both surface and underground, as defined in the inventory guidelines (AML 1).	9. Projects over 100 acres in size.
5. Dangerous slides where the abatement work can result in damage to inhabited property.	

<b>II. DEPARTMENT OF INTERIOR EXCEPTIONS</b>
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These exceptions are presented in 516 DM 2, Appendix 2. The Department's procedures were published in the Federal Register on April 29, 1980 (45 FR 27541) and revised on May 21, 1984 (49 FR 21437).

<b>III. RESOURCE IMPACT EXCEPTIONS</b>
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The resource values correspond to those listed in the OSMRE NEPA Handbook. If any agencies, persons, or groups have unresolved issues with the proposed project, an EA must be prepared.

If project activities result in impacts that must be mitigated through the use of techniques beyond common construction practices, an EA must be prepared to analyze the potential environmental effects, and alternatives. Specialized mitigation is an indicator of the potential for significant adverse effects. Please refer to the NEPA Handbook for more discussion on resource values and definitions.

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The following examples are provided to help the reviewer determine when mitigating measures require preparation of an EA. These examples are for guidance only and are not inclusive.

<b>Common Mitigation Practices Not Normally Requiring an Environmental Assessment:</b>	<b>Specialized Mitigation Practices Normally Requiring an Environmental Assessment:</b>
Watering roads to suppress dust.	Developing detailed dust control plans in response to air quality zone requirements, or public health considerations.
Installation of silt fence and hay bales to control sediment.	A specialized sediment control plan required to protect sensitive off-site resources.
Routine traffic control such as flagmen, safety barricades.	The use of road closures and detours resulting in a substantial alteration of traffic patterns.
Replanting of trees, shrubs and grass to replace lost vegetation types.	Developing a specialized revegetation plan in response to concerns over adverse impacts on plant communities.
Placement of brush piles and rock piles to replace wildlife habitat.	Developing a specialized plan in response to concerns over adverse impacts on wildlife communities.
The routine placement of barriers that allow continued use of mines by non-endangered bats or other species.	Specialized mine closure procedures in response to site specific concerns about bat habitat.

### IV. ATTACH CONSULTATION LETTERS AND A LOCATION MAP

Attach the SHPO consultation letter, the endangered species consultation letter, and any other consultation letters required by the State reclamation plan. The location map should be from a 7.5 minute quadrangle map, with the map name, project name, and project location legibly marked.

### V. RESPONSIBLE OFFICIAL CERTIFICATION

Please complete the block as indicated. The official signing this block is certifying the accuracy and completeness of the statements on the form. The person's name and title should be typed on the second line.

### VI. OSMRE DETERMINATION

The OSM official making the determination is to review this document, check the appropriate block, and sign as indicated. The person's name and title should be typed on the second line.

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**Categorical Exclusion**

**EXHIBIT 3**

**Authorization to Proceed**

State Agency  
Address

Dear [State AML Director]

OSMRE has reviewed the categorical exclusion certification regarding [name of project] and determined that the project conforms with exclusion criteria in 516 DM 6, Chapter 13, and is excluded from further NEPA compliance. Accordingly, pursuant to section 4-160--50 D.3 of the Federal Assistance Manual, you are authorized to proceed with this project and expend Federal funds in accordance with AML grant terms and conditions.

Sincerely

Regional Director  
Field Office Director

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**EXHIBIT 4**

**ENVIRONMENTAL ASSESSMENT**

(General Project Title)  
Abandoned Mine Lands Project  
(Project Number(s), if applicable)  
(County and State)  
(Any other identifying information)

Prepared by

(Name of Federal/State/Tribal Agency)

In Cooperation with

U.S. Department of the Interior  
Office of Surface Mining Reclamation and Enforcement Reclamation and Enforcement  
(Name FO)  
(Date)

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### A. Description of the Proposed Action

[Provide a complete description of the proposed AML project, including the decision to be made and the State/Tribe's proposal, if any.]

### B. Need for the Proposed Action

[Briefly describe the need for this project. If there have been instances of death, personal injury, property damage, or environmental degradation because of the abandoned operation to be reclaimed, include these facts in the discussion of need. Include the priority rating as per the AML Inventory as applicable.]

### C. Alternatives Considered

[A major purpose of an EA is to help the decision maker determine whether to prepare an EIS. In addition, it is to provide compliance with NEPA if an EIS is found not to be required, so that Federal decisions are made based on an understanding of environmental consequences. The purpose of this section is to provide the decision maker and the public with a clear basis for choice among the available options.]

#### **Alternative 1: Issue an authorization to proceed with the proposed project.**

Under this alternative, the OSMRE RD/FOD would authorize construction activities in the amount of (insert \$ amount) for use by the (name state/tribal agency) in implementing the abandoned mine land reclamation proposal described in the following.

[Describe the proposal in enough detail to allow the reader to understand what on-the-ground activities would take place if the proposal is funded. Include a description of the project in terms of what construction activities would take place, the number of acres involved, and the proposed time schedule for completion of the project. Identify past problems, if any, that would not be corrected by the proposal or acres of past disturbance that would not be reclaimed.]

[Describe any design features of the project that would be used to mitigate environmental harm during the construction phase and after reclamation. These mitigation measures include ones that (i) minimize impacts by limiting the degree or magnitude of the action or its implementation, (ii) compensate for the impact by replacing or providing substitute resources or habitat, (iii) rectify the impact by repairing, rehabilitating, or restoring the affected environment, and (iv) reduce or eliminate the impact over some Stated time period. Do not include discussions of impacts.]

#### **Alternative 2: Do not issue an authorization to proceed with the proposed project [No Action].**

Under this alternative, the OSMRE (Name) RD/FOD would deny a Federal grant in the amount of (insert \$ amount) to implement the abandoned mine land reclamation proposal described above under alternative 1. As a result, current conditions would continue, some growing worse and others lessening.

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[Describe what conditions would continue. To the extent possible, identify the conditions that would lessen and those that would intensify, and describe the extent to which they would be expected to lessen/worsen. For example, in the case of a slide, if not reclaimed, the material may continue to advance downhill at the same rate it is now moving, or move at an accelerating rate, or the amount of material in the slide may increase, etc. Do not discuss environmental impacts.]

### **Alternative 3: Other reasonable alternative(s)**

[Ideally, the decision maker should be given a choice of alternative designs for each reclamation proposal. Where appropriate, describe any other alternatives. Provide a complete description of the modifications, as accurate and as detailed as needed to enable the decision maker to understand how the on-the-ground activities in this alternative would differ from the proposed project. Include, as appropriate, any differences in description, acreage involved, time schedule for completion, and conditions to be addressed. As appropriate, indicate what current conditions would not be corrected, if different from the proposed project, any acreage disturbed by past mining that would not be reclaimed, or any other outcome that would be different from the proposed project. Do not discuss environmental impacts of the alternative.]

## **D. Affected Environment**

### 1. General Setting

[Describe the conditions at the site of the project. Begin with a description of the general setting of the environment that would be affected by the proposed project. This will provide the reader with a mental picture of what the area looks like. In addition, the description must include details such as type, dates, and extent of past mining activity, total disturbed acreage, current land use, past and current problems, the anticipated future land use of the project area, and a detailed description of the location. A map showing the location of the proposed project and surrounding area should be included. Photographs may be included when available.]

### 2. Other Affected Resources, including Special Areas of Consideration

[In addition to the above information on the general project setting, descriptions are to be provided for resources found in the project area. Generally, limit descriptions of resources, factors, or concerns including special areas of consideration to those from the list below that may or would be impacted by the proposed action or any of the alternatives under active consideration. Describe these in sufficient detail to understand a change from the present as a result of the proposed action or alternative actions. Identify those resources from the list below that would not be affected by the project, and attach clearance letters as appropriate. **DO NOT** discuss the impacts to the resources as this will be accomplished under section E (Environmental Impacts of the Proposed Alternatives). This section is to provide the reader with an understanding of the current condition of resources found on the site.]

[Special areas of consideration are items that may be considered in the EA because of law, regulation, executive order, or directive. These must be specifically addressed as being or not being present in the project area. This may be accomplished in separate sentences for each concern, or, if several are not present, one sentence (i.e. "the following resources or environmental components are not present in the area....")]

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### RESOURCE VALUES

- a. Historic and Cultural Resources: This includes resources protected by the Archeological Resources Protection Act of 1979, the Archaeological and Historic Preservation Act of 1974; National Historic Preservation Act of 1966, as amended; the American Indian Religious Freedom Act of 1978; the Native American Graves Protection and Repatriation Act of 1990 and OMB Circular A-102.
- b. Hydrology: This includes water quantity and quality, surface water, ground water, floodplains (Clean Water Act, as amended, Executive Order 11998). Are there any streams located in or near the project area?
- c. Vegetation: This includes Wetlands values (Clean Water Act, Executive Order 11990 and Army/EPA MOA Concerning the Determination of Mitigation under the Section 404(b)(1) Guidelines). Describe the general vegetation conditions at the site. This will allow the reader to understand how the project will affect existing stands of trees, shrubs, or herbaceous ground cover. The results of wetland delineations should be presented here.
- d. Fish and Wildlife Resources:
  - 1). Threatened or endangered plant or animal species (Endangered Species Act): This should include any plant or animal species of State or local concern.
  - 2). Other wildlife in the area: Describe the general status of wildlife present at the site. This should include both game and non-game species. Descriptions should be in sufficient detail to allow reader to understand how they will be affected by the project (especially if, being displaced, they may in turn disturb a species that is threatened or endangered).
- e. Soils: This includes Prime and unique farmland values (Farmland Protection Policy Act).
- f. Recreational resource values: Describe any recreation resources found at the site. This should include any Federal, State, or local interests (Wild and Scenic Rivers Act).
- g. Air quality (Clean Air Act): Is the project located in any special air quality zones regulated by State or Local authorities? Describe the general air quality of the project area (often a consideration where surface burning or gases are present at the site of the proposed project).
- h. Noise: Existing environment such a quiet residential or rural area.
- i. Topography: Site topography descriptions should include discussions of any off-site borrow, disposal, or access areas.
- j. Other: This includes socioeconomic factors such as residences, communities, traffic patterns, and effects on businesses, and political factors such as existing local and State interests in the project/area.

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### E. Environmental Impacts of the Proposed Alternatives

[The purpose of this section is to provide the reader/decision maker with the basis for choosing between the proposed action and the alternative(s). This section should identify and discuss the environmental impacts from implementing each of the alternatives identified. The EA needs to present an evaluation of all the environmental impacts that could result from the various alternatives. The analysis should be concise. It should also analyze impacts on both short term bases (during reclamation) and long term bases (after reclamation). The analysis should address each of the resource values appropriate for the area. Also, indirect impacts should be considered. For example, if common bats, displaced by the proposed project, would be likely to move to a nearby cave and disturb an endangered species of bats, this should be discussed.]

#### **Alternative 1: Issue an authorization to proceed with the proposed project.**

##### **1. Resource Values**

[For each of the resource values listed under Section D.2., identify only the ones to be affected by the proposed project and describe how the value would be affected. AML projects generally have beneficial impacts; the quality of the human environment is improved as a long-term result of these projects. These beneficial impacts should be analyzed, pursuant to 40 CFR 1508.8. Discuss the intensity, context, and duration of the potential impacts.

[The analysis should identify the ultimate impacts to that resource value; e.g., raising the pH of a stream or pond would be likely to lead to an increase or change in the diversity of aquatic life. This increase or change in diversity is the impact and should be identified and described.]

##### **2. Cumulative Impacts**

[For each of the resource values, identify the potential cumulative impacts of this proposed project along with other ongoing and/or planned projects. This helps ensure that incremental impacts are not overlooked as a result of "fragmentation" of actions.]

#### **Alternative 2: Do not issue an authorization to proceed with the proposed project (No Action).**

[For each of the resource values included in the above analysis, describe how they would be affected if the proposed project is not carried out, including which effects would worsen over time. Be sure to include ongoing and/or planned projects (cumulative impacts) but not projects of a speculative nature.]

#### **Alternative 3: Approve a differently-designed construction project (See Section II)**

[For each of the resource values potentially affected by the proposed action, describe how they would be affected if this alternative project proposal were carried out.]

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Supplemental Guidance: The following guidance is provided to assist in analyzing all alternatives.

1. **[Impacts:** Analyze the individual and cumulative impacts of the proposed action for the alternatives under active consideration. Describe the impacts on each resource discussed in section D.2. (Affected Environment). Include in the introduction for each alternative a statement that only the environmental resources or factors that will be affected will be discussed. Making one negative declaration for all the resources that will not be affected is permissible (i.e. the following resources will not be affected). Evaluate the direct and indirect impacts of the proposed action and each alternative under active consideration. Characterize the impacts in terms of the following three criteria:
  1. Intensity: negligible, minor, moderate, major,
  2. Context: local, regional, national
  3. Duration: short term, long term]
2. **[Mitigation:** Discuss mitigation measures in any alternatives, including the State/Tribal proposal, that could reduce or eliminate any identified impacts. Indicate the degree to which they would reduce impacts. Remember, the mitigation is relevant only if included as part of a proposed or alternative action.]
3. **[Unavoidable Adverse Impacts:** Discuss the adverse impacts that would remain after mitigation.]
4. **[OSM-EIS-11, Approval of State and Indian Reclamation Program Grants Under Title IV of the Surface Mining Control and Reclamation Act of 1977,** issued in 1983, is a programmatic EIS that describes and analyzes the potential environmental impacts of funding State and Indian projects with "State-share" funds. It may be tiered for the site-specific analysis (that is, it may be a source document for general discussion of impacts. While the program decision to fund proposals submitted for approval by State and Tribal agencies was made following completion of this EIS, **the decision on the design of the specific reclamation projects and the related cost** is the purpose of this site-specific EA. Impacts discussed in the environmental documents accompanying the grant proposals must be specific to the site of the proposed project. If the proposal is a simple project involving one of the generic types described in OSM-EIS-11, the description of the impacts in that EIS can be used in this document, but they must be tailored to the specific site. If so, the resource elements still need to be addressed in Section III, and required consultations must still be made for this particular site/project.]

### F. Summary

Give a brief summary of the proposed action, alternatives and their beneficial and adverse impacts as appropriate. Compare the impacts associated with each alternative under active consideration, including the proposed action.

## ENVIRONMENTAL COMPLIANCE

### G. Persons and Agencies Contacted to Assist in the Preparation of the Environmental Assessment

List the following: (for individuals and agencies provided give address and phone number)

1. The OSMRE contact for the proposal,
2. Any other person or agency directly involved in the proposed action,
3. Any other person or agency providing information for the environmental assessment.

[List all persons or agencies consulted for information or opinions during the planning and preparation of this document. Required consultations may include:

1. FWS, for threatened/endangered species
2. Army Corps of Engineers, where waters that involve section 404 of the Clean Water Act are involved,
3. State Historic Preservation Officer, if historical properties are involved.
4. State Natural Heritage program office.

[If a response was received from the person or agency, include a copy in Appendix A.]

### H. Preparer

[List the name of the person who prepared the environmental assessment, his or her position, agency, branch, city, state.]

### I. References

[List all references cited in the text or relied on for major source material for the analysis including all other environmental documents which consider the area involved.]

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Name and Title of responsible state/tribe official

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Signature of state/tribal Agency

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Date

**ENVIRONMENTAL COMPLIANCE**

**Appendix A**

**Consultation Letters**

[Attach a copy of the letter seeking consultation and the response(s) from each official.]

**ENVIRONMENTAL COMPLIANCE**

**EXHIBIT 5**

**FINDING OF NO SIGNIFICANT IMPACTS**

(General Project Title)  
Abandoned Mine Lands Project  
(Project Number(s), if applicable)  
(County and State)  
(Any other identifying information)

OSMRE has thoroughly reviewed the attached environmental assessment, prepared by [insert State/Tribal agency name], and determined that it adequately discusses the environmental issues and impacts for OSMRE abandoned mine lands reclamation construction activities authorization purposes.

Based on the analysis in this environmental assessment, I find that reclamation of this abandoned mine site would not have significant effects on the quality of the human environment. I therefore conclude that no detailed statement (EIS) is necessary.

My specific reasons are as follows:

[List factors in the EA such as absence of endangered species or a determination that any present are not likely to be affected; commitment to relocate affected families during the construction phase; site does not contain wetlands or floodplains; etc., whatever the major items are in the EA.]

OSMRE Environmental Reviewer (or Preparer)

_____	_____
Title	Date
_____	_____
OSMRE Representative	Date
_____	_____
Awarding Office	Date

## ENVIRONMENTAL COMPLIANCE

### EXHIBIT 6

#### FONSI Authorization to Proceed

State Agency  
Address

Dear [State AML Director]

The Office of Surface Mining Reclamation and Enforcement (OSMRE) has reviewed the environmental assessment for the [name of project] and determined that it adequately discusses the environmental issues and impacts associated with the project. Based on analysis of this document, I have determined that reclamation of this abandoned mine site would not have significant effects on the quality of the human environment and therefore conclude that no environmental impact statement is necessary. In addition, the AML inventory information submitted for this project has been accepted for inclusion in the inventory.

Accordingly, pursuant to section 4-160-50D.3 of the Federal Assistance Manual, you are authorized to proceed with this project and expend available Federal funds in accordance with AML grant terms and conditions.

Sincerely:

Field Office Director