

**OFFICE OF SURFACE MINING
RECLAMATION AND ENFORCEMENT**

**Annual Evaluation Summary Report
for the**

**North Dakota Public Service Commission
Abandoned Mine Lands Program**

Evaluation Year 2010

(July 1, 2009 to June 30, 2010)



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(Cover photo: Reclaimed highwall and improved fishing area, Hazen West Phase 2 Project)

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 to oversee regulation of coal exploration, surface coal mining and reclamation operations, and reclamation of lands adversely affected by past mining practices. SMCRA provides that, if certain conditions are met, a state may assume primary authority for reclamation of abandoned mine lands (AML) within its borders. Once a state has obtained such approval, OSM has the responsibility to make investigations, evaluations, and inspections necessary to determine whether that state's AML program is being administered in accordance with approved program provisions.

On December 23, 1981, the Secretary of the Department of Interior approved North Dakota's Abandoned Mine Land Reclamation (AMLR) Plan under Title IV of SMCRA. With that approval, the State of North Dakota through the North Dakota Public Service Commission (NDPSC) has exclusive responsibility and authority to operate the Abandoned Mine Reclamation Program. On September 27, 1993, the Secretary approved North Dakota's May 25 1993 amendment to its AMLR Plan allowing North Dakota to assume responsibility for an emergency response reclamation program. The North Dakota Public Service Commission, Abandoned Mine Lands Division (AMLDD) currently administers these programs.

OSM's evaluation methods are based upon OSM Directive AML-22 (Evaluation of State and Tribal Abandoned Mine Lands Programs) and a Performance Agreement (PA) between NDPSC and OSM. The PA established a commitment between NDPSC and OSM identifying topics for review, methodologies for enhancement and evaluation of performance reviews, and assistance in the preparation of the final report. Assessment of NDPSC performance includes reviews of selected topics such as fiscal and administrative controls, progress in coal mine reclamation, overall reclamation success, public interaction and outreach, and integration with the OSM Abandoned Mine Land Inventory System (AMLIS) database. Reclamation site visits were conducted jointly by NDPSC project managers and OSM staff. Evaluation year 2010 consisted of a full twelve month period beginning on July 1, 2009 and ending on June 30, 2010.

The following is list of acronyms used in this report:

AML	Abandoned Mine Land
AMLIS	Abandoned Mine Land Inventory System
AMLR	Abandoned Mine Land Reclamation
AMLDD	Abandoned Mine Land Division
ATP	Authorization to Proceed
CFO	Casper Field Office
FONSI	Finding of No Significant Impact
NDPSC	North Dakota Public Service Commission
NTTP	National Technical Training Program
OSM	Office of Surface Mining Reclamation and Enforcement
PAD	Problem Area Definition
SMCRA	Surface Mining Control and Reclamation Act of 1977
TIPS	Technical Innovation and Professional Services

II. Program Administration

The North Dakota AMLR program continues to operate under the guidelines of SMCRA, the approved State Reclamation Plan, the Federal Assistance Manual, and associated rules, regulations and policy decisions. The State administers an excellent AMLR program in full compliance with their approved AMLR Plan.

The Casper Field Office (CFO) continues to enjoy an excellent working relationship with the staff of North Dakota AMLD. Their personnel are experienced, knowledgeable, and dedicated to the goals of the program. AMLD also maintains a good relationship with other State and Federal agencies that must be contacted during the course of preparing projects for reclamation. North Dakota AMLD maintains a program staff of 4.55 full time employees and their administrative offices are located in the Capitol building, in Bismarck. North Dakota AMLD received \$3.40 million dollars in evaluation year 2010 to accomplish the necessary reclamation of hazardous abandoned mines. The Emergency Program received an additional \$100,000 dollars. All project work is completed in house by staff personnel, and actual reclamation work is contracted out to private construction firms.

North Dakota AMLD initiates reclamation activities each spring as soon as weather conditions allow. Many rural sites are accessible only by dirt and gravel roads, which must be allowed to dry sufficiently before heavy equipment can travel on them. Work may start as much as two months earlier on sites located near the paved road system, and it continues until halted by the severe weather conditions usually encountered in North Dakota during the winter. Coal outcrop fire suppression projects are also conducted during winter months. However, this is generally the time of the year when future projects are designed, and coordination necessary to get projects ready for the next construction season takes place. All of the reclamation completed in North Dakota to date has been on abandoned coal mines, and no non-coal work is planned (Table 1).

Prior to initiating any construction work, AMLD submits a documentation package to OSM with a request for an Authorization to Proceed (ATP). This package includes 1) a complete Environmental Assessment or Categorical Exclusion, 2) a project eligibility determination pursuant to 30 CFR 874.12 prepared by the Director of the North Dakota Reclamation and AML Divisions, 3) a lien determination pursuant to 30 CFR 882.13 if necessary, 4) a threatened and endangered plant and animal species survey, and consultation results with the U.S. Fish and Wildlife Service, 5) consultation results with the State Historic Preservation Office, 6) site maps and photographs, and 7) AMLIS Problem Areas Description (PAD) reports. If acceptable and complete, CFO issues a Finding of No Significant Impact (FONSI) and an ATP pursuant to section 5-11-20D.3 of the Federal Assistance Manual to AMLD prior to reclamation or construction of each project.

III. Noteworthy Accomplishments

A. Overall Performance

Since the Program's inception, the North Dakota AMLD has conducted over 132 primary reclamation projects, 24 emergency projects and numerous construction maintenance and sinkhole drilling projects, at a total cost of approximately \$34 million of federal funds. More than 17 miles of dangerous surface mine pits and highwalls and 1,500 acres of underground mine subsidence have been reclaimed. In the past two years, 12,500 feet of dangerous highwalls were backfilled, 12,950 cubic yards of grout were pumped into underground mine voids, over 650 dangerous sinkholes caused by underground mine collapse were filled, and 31 coal outcrop fires were extinguished. These projects have reduced the likelihood of death or injury to property owners and the public. Details of these achievements can be found in Table 1.

B. GIS Activities

Significant progress has been made on the AML Mine Information System. The goal is to produce an interactive map and queryable database linked to information on all known AML sites in North Dakota. To date, more than 450 mine maps and 1,500 pages of textual information have been scanned. In 2009, those scanned mine maps were georeferenced and vectorized, and textual information was OCR'd (optical character recognition) into searchable documents. Mine extents, or footprints have been digitized for each scanned map. Mine points have been established for all AML sites, including those for which no maps exist. Approximately 700 additional mine points were added based on data from the USGS GeoCommunicator website and 86 more points from data in NDGS Biennial reports from 1902-1912. A preliminary web interactive map application has been developed that displays and provides summary information and mine maps for many AML locations. Some of this work was financed by an OSM mine-mapping grant that ended November 30, 2009. The purchase of an RTK survey grade GPS unit in 2009 and concomitant RTK training will provide another important tool in AML Reclamation. The State's GIS activities are dynamic, and new information and improvements are being added almost every day.

**TABLE 1. NORTH DAKOTA ABANDONED MINE LAND
RECLAMATION NEEDS AND ACCOMPLISHMENTS
SINCE PROGRAM APPROVAL**

Problem nature	Unit	Coal-related problems				Noncoal-related problems	
		Abatement status			Total	Abatement status	
		Unfunded	Funded	Completed		Funded	Completed
Priorities 1, 2 and 3 (Protection of public health, safety, and general welfare)							
Dangerous Highwalls	Lin. Feet	72,725	10750	91898.9	175,373.9	0	0
Dangerous Impoundments	Count	0	0	4	4	0	0
Industrial/Residential Waste	Acres	1	0	0	1	0	0
Dangerous piles & embankments	Acres	0	0	317	317	0	0
Dangerous Slides	Acres	0	0	35	35	0	0
Gases: Hazardous/Explosive	Count	0	0	0	0	0	0
Gobs	Acres	1	0	0	1	0	0
Hazardous Equip. & Facilities	Count	5	0	14	19	0	0
Hazardous Water Body	Count	25	0	18	43	0	0
Industrial/Residential Waste	Acres	16	0	2	18	0	0
Portals	Count	10	0	13	23	0	0
Polluted Water: Agric. & Indust	Acres	1	0	6	7	0	0
Polluted Water: Human Consumption		1	0	0	1	0	0
Subsidence	Acres	3,208.7	0	1,567.9	4,776.6	0	0
Spoil Area	Acres	110	0	0	110	0	0
Surface Burning	Acres	0	0	20	20	0	0
Vertical Opening	Count	155	0	150	3056	0	0
Water Problems	Gal/Min	10	0	0	10	0	0

Note: All data in this table are taken from the Abandoned mine Land Inventory System (AMLIS) 7/29/10

IV. OSMRE Assistance

NDPSC retains highly qualified staff capable of utilizing OSM software and technology. Staff routinely use mobile computing technology, and require TIPS support of ArcPAD, GIS, AutoCAD, and Remote Sensing software licenses to perform their duties. The AMLD has representatives that are Geospatial Data Stewards, and participate on the Western Region Technology Transfer Team, and geospatial conferences. Continued involvement in these technical conferences and teams will foster additional partnerships and innovative approaches to resolve technical challenges.

A. National Technical Training Program (NTTP)

During the evaluation period, five Reclamation Division staff and two AML program staff attended a total of seven NTTP training courses. One AML staff participated as an NTTP instructor for the AML Drilling and Grouting class during this reporting period. One Reclamation staff member attended the Instructor's Training Course and may serve as an instructor in the future.

B. Technical Innovation and Professional Services (TIPS)

During the evaluation year two Reclamation staff and one AML staff attended a total of three TIPS training courses. No staff members participated as TIPS instructors.

V. Results of Evaluation Year 2010 Review

Topic evaluations reports and individual project reports containing much more detail are on file in the 2009-10 Annual Evaluation files at the Casper Field Office. As identified in the 2008 PA, the following topics were selected for evaluation: 1) Overall Reclamation Success, 2) AML Emergency Investigations and Abatement Efforts, 3) AML Fiscal and Administrative Controls, 4) Integration with AMLIS, and 5) Public Outreach

The North Dakota AML PA was signed on June 3, 2008. The current PA will remain applicable until such time as a re-evaluation is deemed appropriate. The PA describes the team's purpose and the topics selected for review to evaluate the performance of the AML program. On-the-ground, performance-based results were the principal focus of program evaluation and documentation.

Results of the 2010 evaluations are summarized below. The evaluations included field visits to AML projects, interviews with NDPSC-AMLD staff, and reviews of the AMLR Program's project specifications, grant applications and reports, and internal State and AMLIS inventories.

A. Summary Evaluation of Overall Reclamation Success

Our 2010 evaluation of overall reclamation success determined if NDPSC-AMLD's reclamation met project goals. We compared NDPSC-AMLD's reclamation to project specifications, results of interagency consultation, and other information. Our evaluation focused on determining whether reclamation met project goals by implementing the scope of work to abate original hazards, complying with conditions (if any) resulting from interagency consultation, and improving overall site conditions compared to pre-reclamation conditions. Generally, we agreed projects met their goals if abatement and reclamation measures were intact and functional, and if no problems compromising those measures were apparent. We considered site conditions improved overall if hazards to public health and safety were abated and associated reclamation reduced environmental problems such as erosion and sedimentation while promoting revegetation.

We concluded that the projects we visited met their respective goals. NDPSC-AMLD met the goals of abating hazards and improving site conditions at all projects conducted in 2010. Highwalls associated with abandoned surface coal mines were properly eliminated and the regraded areas were revegetated. Underground mine voids were

backfilled remotely with injection of pressurized grout through drilled injection holes to eliminate the threat of subsidence. The injection holes were properly reclaimed. Sinkholes associated with underground mine voids were properly eliminated and the backfilled areas were revegetated.

The following is a summary of non-emergency AMLD Projects conducted during EY2010:

Beulah/Zap Phase 11 Project

This project area is located near the cities of Beulah and Zap, ND. Project activities include pressurized grouting, remote backfilling and associated work at several locations within Mercer County. This project is a continuation of previously conducted work to stabilize undermined segments of public roads near Beulah and Zap. A FONSI and ATP were issued by OSM on Jan. 22, 2010.

Williams County 9 Phase 3 Project

This project represents the third consecutive year of a project series conducted to stabilize county highway streets and residential areas from underground collapse. This project incorporated pre and post project informational workshops, pre and post structural surveys and structural monitoring, a groundwater monitoring program, and the use of borehole camera surveys. A FONSI and ATP were issued by OSM on Feb. 5, 2008. The project was closed out on October 14, 2009 and completion data was entered into AMLIS on October 2, 2009.

Williams County 9 Phase 4 Project

This project represents the fourth consecutive year of a project series conducted to stabilize county highway streets and residential areas from underground collapse. This project incorporated pre and post project informational workshops, pre and post structural surveys and structural monitoring, a groundwater monitoring program, and the use of borehole camera surveys. A FONSI and ATP were issued by OSM on Jan. 28, 2009. The project was closed out on May 12, 2010 and completion data was entered into AMLIS on August 31, 2010.

Williams County 9 Phase 5 Project

This project represents the fifth consecutive year of a project series conducted to stabilize county highway streets and residential areas from underground collapse. This project incorporated pre and post project informational workshops, pre and post structural surveys and structural monitoring, a groundwater monitoring program, and the use of borehole camera surveys. A FONSI and ATP were issued by OSM on Jan. 22, 2010.

Hazen West Phase 2 Project

This project was located between Hazen and Beulah. Approximately 5,000 feet of dangerous highwall was backfilled and spoil piles were leveled on an area of about 50 acres (Figures 1 and 2). Additional grading and rip-rap peninsulas were used to improve a fishing area. A FONSI and ATP were issued by OSM on Jan. 28, 2009. The project was closed out on September 29, 2009 and completion data was entered into AMLIS on September 14, 2009.



Figure 1. Hazen West Phase 2 Project from the ground



Figure 2. Hazen West Phase 2 Project from the air

Columbus Phase 10 Project

This project is located approximately 6 miles south of Columbus, ND. Approximately 500 feet of dangerous highwall was backfilled and spoil piles were leveled on an area of about 7 acres. A FONSI and ATP were issued by OSM on Sept. 9, 2009. The project was closed out on December, 10, 2009 and the completion data was entered into AMLIS on December 12, 2009.

Buechler/Velva Project

This project area is located approximately 7 miles from Velva, ND. Project activities include backfilling approximately 10, 750 feet of dangerous highwalls and leveling adjacent spoil piles (Figure 3). A FONSI and ATP were issued by OSM on Jan. 22, 2010.



Figure 3, Aerial photo of the Buechler/Velva AML Site

Buechler/Velva Aerial Photography and Topographic Maps

This project was conducted at a site southwest of Velva where a surface mine reclamation project will be constructed later in 2010. The contract closed November 10, 2009.

2010 Hazen West Tree Planting

This project involved tree planting at the Hazen West Site. The contract was open from April 1, until July 16, 2010.

2009 Sinkhole Maintenance

This project is a continuation of the 2008 Sinkhole Maintenance Project. This project addressed the filling of approximately 310 dangerous sinkholes (Figures 4 and 5). These sites are located on 13 properties near Wilton, Dickinson, Noonan, Beulah, and Garrison. The FONSI and ATP were issued by OSM on Sept. 9, 2009. This project was extended until November 30, 2010.



Figure 4. 2009 Sinkhole Maintenance Project: Approximately 181 sinkholes were filled on this tract owned by the Noonan Landfill



Figure 5. 2009 Sinkhole Maintenance Project: This sinkhole was approximately 12' in diameter and 25' deep.

B. Summary Evaluation of AML Emergency Investigations and Abatement Efforts

Our 2010 evaluation of AML emergency investigations and abatement efforts determined if the emergency criteria of the State AMLR plan are satisfied and the project(s) are completed as described in the AML Emergency Investigation report. The 2010 review

sample included all AML emergency reports received during the evaluation year, and all emergency projects completed during the evaluation year. During evaluation year 2010 the NDPSC-AMLD received one report of an AML emergency. The sole report resulted in an AML emergency reclamation project. The project addressed the sudden occurrence of a sinkhole resulting from pre-SMCRA underground coal mining.

We reviewed all files of emergency reports received during the evaluation year, AML Emergency Investigation reports, work specifications contained in bid solicitations and results of interagency consultations. Our evaluation focused on determining whether proper consideration was given to all citizen reports of emergency conditions, and determining if the emergency reclamation projects were completed as described in the AML Emergency Investigation reports.

We concluded the NDPSC-AMLD is adhering to the provisions of the emergency program contained in the State AMLR plan. The AMLD promptly responded to each emergency report received, conducted thorough investigations of each report, and properly submitted AML Emergency Investigation reports to CFO in order to obtain authorization for expenditure of AML emergency funding. The single emergency project was completed as described in the AML Emergency Investigation report and specifications contained in bid solicitations.

Beulah KDKT Project

This project was initiated to repair a dangerous sinkhole caused by underground mine collapse near the KDKT Radio Tower in Beulah, ND. This sinkhole was reported to the NDPSC on June 1, 2010 (Figure 6.). A categorical exclusion was granted, and a Finding of Fact and Declaration of Emergency from OSM were issued on June 7, 2010. The sinkhole was filled with 50 cubic yards of cementitious grout, and an additional 200 cubic yards of dirt (Figure 7). The site was also regraded, topsoiled and seeded. Work was completed on June 28th and the contract was closed on July 14, 2010.



Figure 6. Beulah KDKT Project: KDKT Tower on June 3, 2010, prior to reclamation activities.



Figure 7. Beulah KDKT Project: KDKT Tower after reclamation activities are complete.

C. Summary Evaluation of AML Grant Fiscal and Administrative Controls

Our 2010 evaluation of grants fiscal and administrative controls within the North Dakota AMLR Program focused on AML grant application and reporting procedures. The review concentrated on explanations and discussions regarding the State's drawdown of AML Grant Funds and if they are in accordance with the requirements of Chapter 5-55 of the Federal Assistance Manual. The review was conducted on May 20, 2010, at the NDPSC offices in Bismarck. Drawdown reports from 2009 and 2010 were sampled to determine the actual and optimum days that the State Program takes to pay its customers and obligations.

This on-site review found that the NDPSC performs grant fund draw-downs in a timely manner and keeps adequate records of current and previous drawdown actions. Monthly Oracle Journal entries are kept to cross check monthly expenses and funds drawn to pay for them. A running total of expenses is kept and compared with the ASAP report from the U.S. Treasury. A Month Ending Report is also prepared that contains all revenue and expenditures that are charged to each grant. The North Dakota Program submits monthly drawdown requests to the U.S. Treasury ASAP system for reimbursement.

All direct and in-direct costs are captured in a monthly expenditures report per object codes, fund source and grant number. Each drawdown is recorded on a monthly basis with account balances moved forward into the following month of operations.

All grant costs are tracked by the North Dakota Accounting System for individual projects and services. Expenditures are subtracted and updated balances are provided to the Abandoned Mine Lands Program Director on a monthly basis. Drawdown reports sampled for this report were from September 2009 through April of 2010. All drawdown reports looked at during this review were properly documented in the States monthly drawdown summary report.

Grant funds are drawn at the end of each month to reimburse the NDPSC for expenses previously paid for by the State since North Dakota is on a cash reimbursement basis. The NDPSC maintains a financial drawdown system which complies with Federal and State requirements. The North Dakota Program meets the requirements of Chapter 5-55 of OSM's Federal Assistance Manual and with the Cash Management Act of 1990. Since the NDPSC does not keep any cash on hand, no further action is recommended by this review.

D. Summary Evaluation of Abandoned Mine Land Inventory System (AMLIS)

Our 2010 evaluation of AMLIS determined if the information the State entered into AMLIS agrees with information in its files. This topic was mandated for review due to a September, 2004 report issued by Interior's Office of the Inspector General (OIG). The report criticized the accuracy of AMLIS data, based on the OIG review of AMLIS data for four eastern States' AML programs. The OIG's review concluded that AMLIS data did not match data in those States' files and recommended establishing "a quality control system that ensures that States, Tribes, and OSM, as applicable, review and certify the accuracy of data entered into AMLIS." In response to the OIG's recommendation, OSM required its field offices to implement two requirements. The first requirement is to "assure that each State and Indian Tribe AML program has procedures in place to ensure and certify the accuracy of data entered into AMLIS" as part of the FY2004 oversight (subsequently changed to FY2005). OSM Headquarters subsequently advised field offices to drop the certification requirement. As a result, the focus is to make sure States and Tribes have requisite systems in place. The CFO has determined North Dakota has such a system in place that is adequate to ensure accurate data is entered into AMLIS.

The second requirement implemented by OSM in response to the OIG's recommendation stated, "[o]nce these State and Indian Tribe procedures are in place, OSM will annually review a random sample of [PADs] to see if the information entered into AMLIS agrees with the information in the PAD." As a result, the focus is to make sure the data States and Tribes entered into AMLIS PADs (an integral part of AMLIS) agrees with the information in their files. The evaluation goal was to determine if the information North Dakota enters into AMLIS, for projects completed during the evaluation year, agrees with information in its files.

The North Dakota AMLD compiles data from various sources for input into AMLIS. These sources include project information spreadsheets, project diaries, close-out reports to the PSC and meeting minutes from PSC-approved payment of contractor invoices. Data pertaining to emergency projects include procurement and contract data compiled in Project Summary Books, site-specific project data and site photographs. Project completion data is tracked on an EXCEL spreadsheet. Information in the spreadsheet includes project name, location, contract number, contractor, year of contract, year of completion, cost and method of reclamation.

Information entered into AMLIS is performed by designated Project Managers on the AMLD staff. This information is based on the above-mentioned data sources. Since AMLIS data is not intended to include maintenance project information, maintenance project data is housed in a separate location from other project data. The AMLD keeps records of maintenance projects in a separate booklet describing procurement, contracting, scope of work and photographs for each of the maintenance projects.

Completion information entered into AMLIS for the total number of projects completed during the evaluation year was analyzed and compared to the information contained within the AMLD files.

We concluded the information North Dakota AMLD entered into AMLIS for completed projects agrees with the information in its files.

E. Public Outreach

The AMLD encourages public participation through public meetings, public service announcements, press contacts, project meetings, and by responding to public inquiries. A public meeting was held January 20, 2010, in Minot to discuss and solicit comments on the Buechler/Velva Project and sinkhole reclamation in that area. Pre and post construction workshops were held for property owners involved with the Williams County 9 Project. AML staff responded to more than 50 calls regarding abandoned mines. Project completion reports were mailed to more than 20 property owners, renters and interested parties affected by the 2009 Sinkhole Maintenance project.

V. Conclusions

OSM has completed its evaluation of topics specified in the PA between NDPSC and OSM. This evaluation specifically examined six topic areas to evaluate NDPSC performance:

- 1) Overall Reclamation Success,
- 2) AML Emergency Investigations and Abatement Efforts,
- 3) AML Grant Fiscal and Administrative Controls,
- 4) Integration with AMLIS, and
- 5) Public Outreach

NDPSC met the goals of abating hazards and improving site conditions at all its' projects during EY2010. Dangerous sinkholes were filled, highwalls were buried, and spoil piles were leveled. Coal mine fires were extinguished, coal exposures and slack were buried, and sites were re-vegetated. The single emergency situation was handled quickly and efficiently, and significant damage to property was avoided.

Financial Stature Reports were submitted within the required timeframes and with no deficiencies noted. A review of the North Dakota AML Grant Accounting Procedures confirmed that recent audits had no questioned or disallowed costs associated with OSM-North Dakota AML grant(s).

NDPSC has an excellent data management system, primarily based on their GIS infrastructure. Their data entries into AMLIS are correct and complete to the degree that development of the new E-AMLIS system has hampered data entry.

We have concluded that the NDPSC is adhering to the public participation and involvement policy of the North Dakota AMLR plan by holding public meetings regarding potential AML project sites.

Overall, NDPSC has performed its duties admirably and has adhered to its AML Reclamation Plan. NDPSC is recognized by OSM for the performance and quality of its work.

APPENDIX A: State Comments and CFO's Responses to the Draft Annual Evaluation Summary Report

The North Dakota Public Service Commission responded with several corrections and suggestions for improving this document, in a letter dated September 2, 2010. Data inaccuracies were pointed out and corrected. Project completion dates were verified and corrected. Dates were also verified to ensure activities listed in this report actually occurred during EY 2010 (between July 1, 2009 and June 30, 2010). Also, a description of a public meeting held in Minot was added.

CFO agrees with all of NDPSC's suggested changes and the appropriate sections of the report have been modified.