

**OFFICE OF SURFACE MINING
RECLAMATION AND ENFORCEMENT**

**ANNUAL EVALUATION SUMMARY REPORT
FOR THE
REGULATORY PROGRAM
ADMINISTERED BY THE STATE OF**

ALASKA

**EVALUATION YEAR 2001
OCTOBER 1, 2000 TO SEPTEMBER 30, 2001**

TABLE OF CONTENTS

- I. Introduction
- II. Overview of Coal Mining Industry
- III. Overview of Public Participation in the Program
- IV. Major Accomplishments/Issues/Innovations
- V. Success in Achieving the Purpose of SMCRA
 - A. Off-site Impacts
 - B. Reclamation Success
 - C. Customer Services
- VI. OSM Assistance
- VII. General Oversight Topic Reviews
- Appendix A: Tabular Summary of the Core Data to Characterize the Program
- Appendix B: State Comments on the Report

I. Introduction

The Surface Mining Control and Reclamation Act of 1977 (SMCRA) created the Office of Surface Mining Reclamation and Enforcement (OSM) in the Department of the Interior. SMCRA provides authority to OSM to oversee the implementation of and provide Federal funding for State regulatory programs that have been approved by OSM as meeting the minimum standards specified by SMCRA. This report contains summary information regarding the Alaska program and the effectiveness of the Alaska program in meeting the applicable purposes of SMCRA as specified in Section 102. This report covers the period of October 1, 2000 to September 30, 2001. Detailed background information and comprehensive reports from the program elements evaluated during the period are available for review and copying at the Olympia, Washington OSM Office.

The following acronyms are used in the report:

AML	Abandoned Mine Lands
DMLW	Division of Mining, Land and Water
DNR	Alaska Department of Natural Resources
EY	Evaluation Year
GVEA	Golden Valley Electric Association
NOV	Notice of Violation
NTTP	National Technical Training Program
OSM	Office of Surface Mining
OTT	Office of Technology Transfer
PF	Poker Flats
PITS	Permit Information Tracking System
SMCRA	Surface Mining Control and Reclamation Act of 1977
TBR	Two Bull Ridge
TDN	Ten Day Notice
TIPS	Technical Information Processing System
UCM	Usibelli Coal Mine Inc.

II. Overview of the Alaska Coal Mining Industry

Alaska is home to enormous coal reserves, estimated to be approximately 170 billion tons; however, presently, coal mining does not contribute significantly to the overall economy of the State. Most of the economic benefits from the coal industry are realized at the local level. Healy, Alaska is presently the location of the only active coal mining in the State. Despite the fact that the Healy area economy is becoming more diversified, primarily due to increased tourism, the area benefits greatly from the economic contributions made possible by the mining activity.

The three active surface mines are located in the Hoseanna Creek Valley, near Healy, and employ approximately 150 people and the adjacent Golden Valley Electric Association (GVEA) mine mouth power plant employs about another 50 people. Much of the coal mined in the Hoseanna Creek Valley is burned by the GVEA power plant; however, some is transported by rail and truck to other facilities in Fairbanks and to military bases throughout the State. The mine operator, Usibelli Coal Mine Inc. (UCM) also exports a sizable portion of the coal to South Korea.

Not only is UCM the largest year-round employer in the Healy area, the company is very active in the community by supporting many local activities. Currently, about 1.6 million tons of coal is mined annually in the Healy area. Barring any unforeseen circumstances, there is a good likelihood that production will increase because Usibelli is now producing from its Two Bull Ridge Mine (TBR) which is across the Hoseanna Creek from its Poker Flats Mine (PF). The mine, permitted in late 1997, will produce approximately 2.1 million tons of coal annually at full production.

UCM has assumed through permit transfer, the leasing and mining rights to two additional Division of Mining, Land and Water (DMLW) permits as well as an exploration permit. UCM plans to develop this area when the coal market improves. The permits are located in an area known as Wishbone Hill, about 1 hour northeast of Anchorage, near the town of Sutton. Considering that transportation concerns and costs often make Alaska coal economically unfeasible, the location of UCM's Wishbone Hill permits could trigger increased mining activity in the State. The Wishbone Hill permits are due to be renewed in early 2002.

Although no coal removal has occurred at the Wishbone Hill location, the fact that UCM picked up the permits could be a positive indication that UCM is not only committed to operating in the Healy Valley, but possibly Statewide as well.

At the close of the 2000 evaluation cycle, the operator of a struggling underground coal mine, the Jonesville Mine, also located in the Sutton area, was in the process of selling its assets to another company. The potential mine purchaser had expressed an interest to

the DMLW staff in transferring the permit. Since that time, the present owner, Nerox Power Inc., has decided to retain both the coal leases and the permit. DMLW has been working diligently to address some remaining permitting issues. OSM and DMLW staffs are both interested in bringing closure to the issues associated with the Nerox Power operation. DMLW staff has indicated that should the outstanding permitting issues remain unresolved much longer, other options will be explored. This situation continues to be monitored by OSM.

III. Overview of the Public Participation Opportunities in the Oversight Process and the State Program

Historically, there hasn't been much public participation in the Alaska coal program due to its small scale, the size and impact of the coal industry and the remoteness of the active mining operations. Until the last few years, there has been little interest on the part of the coal industry to expand existing operations or to develop new mining sites; and, as a result, public interest in coal mining and DMLW activities has been minimal.

As has been mentioned in previous oversight reports, the State and OSM have provided several opportunities over the years for public involvement in both permitting activities and overall SMCRA program development and administration. Both DMLW and OSM have published public notices over the years in the State's two largest newspapers (Anchorage and Fairbanks) announcing DMLW sponsored public meetings at which interested parties could provide input. Over the years, the State has made other attempts to solicit public input, all to no avail.

In the past, DMLW management thought a more targeted approach was needed due to the size and remoteness of Alaska. DMLW approached the Alaska Center for the Environment and asked if a representative from that group would be interested in serving on a multi-interest group representing all stakeholders. Although the Alaska Center for the Environment never formally appointed a representative nor accepted the State's offer, the DMLW attempts to keep all stakeholders informed of its decisions.

As previously mentioned, with the increased interest in the coal resources located in the Sutton area and with greater potential for impacts, the DMLW thought that a different approach to public involvement was needed. As stated earlier, Sutton is located approximately one hour northeast of Anchorage and has a higher population density than most of Alaska. To notify the local population of coal related activities, the DMLW publishes the normal newspaper notices as well as posts informational flyers throughout the Sutton community. The DMLW staff continues to keep the Sutton Community Council, the Chickaloon native community and the Buffalo Mine Road Community Council informed of all coal related activities. This is accomplished by attending Council meetings, distributing informational flyers and by arranging site visits for interested parties. DMLW has also encouraged representatives of UCM to attend Council meetings and to make presentations concerning their intentions in the area and to answer questions

the residents may have. DMLW management has realized the benefits of involving all local stakeholders as early as possible in the decision making process.

It should be noted that public participation is increasing in the Sutton area. During the last couple of review cycles, public notices have generated a significantly higher number of public comments that have been addressed by DMLW. Another factor that has triggered increased public involvement is the DMLW's increased use of the Internet to publicize permitting actions, to make available permit related documents and to solicit public input.

As previously reported, the Alaska Department of Natural Resources (DNR), has published a detailed and informative publication entitled, Mining Reclamation in Alaska, Just Doing It Right. This 37- page publication focuses on reclamation requirements and practices employed by the coal industry and the hard-rock mining industry. One chapter is dedicated to the State's Abandoned Mined Land Reclamation program (AML). Also, the publication recognizes past winners of the Alaska Reclamation Award. This publication was widely distributed to interested parties when it was first published. Having been available for several years, the DMLW still receives occasional requests for the publication; despite the informational value of the publication, it doesn't seem that it resulted in any increased public participation. DMLW has put the 10-volume Wishbone Hill permit on CD and has placed a copy of it in both the Sutton and Palmer public libraries. The Wishbone Hill permits are to be renewed early into the next evaluation cycle and the DMLW staff anticipates quite a bit of public participation in that process.

IV Major Accomplishments/Issues/Innovations in the Alaska Program

The DMLW remains fully staffed. The mining engineer that was added to the staff during the last evaluation cycle has provided much needed support in the areas of permit processing, inspection/enforcement and program administration. There is stability in the staff and it is evident in the quality of the work being produced, particularly in the area of electronic permitting and data management.

As discussed in previous evaluation reports, the DMLW signed off on the constructed buttress and grading work performed at UCM's Poker Flats Mine. The work was required to abate a long-standing Notice of Violation (NOV) issued to UCM for unstable outcrops. During past DMLW/OSM mine site inspections, the vegetation on the outcrops was evaluated and found to be successful. There were some areas that OSM and DMLW were concerned about; areas that were showing signs of deep seeded erosion. So as to prevent erosion rills and gullies from becoming too established, DMLW and the operator developed a plan for identifying, measuring, mapping and monitoring the areas of concern.

The DMLW staff has generated high quality, detailed maps of all significant erosion features located on the reclaimed outcrops. The maps are produced using UCM's annual aerial photograph of the mine as a starting point. Each area of concern is identified, then

ground truthed and measured and mapped. The State and permittee can easily monitor the rills and gullies to determine if they are increasing in size or healing themselves. It should be noted that DMLW and UCM have entered into an extended ten-year monitoring program to ensure long-term success of the slope stability abatement work.

As discussed in previous oversight reports, the State has made progress in developing a data management system. After some initial testing of the Coal Permit Information Tracking System (PITS), the DMLW planned some major modifications. Due to staffing and organizational changes, it took longer than anticipated to complete the revisions to Coal PITS. OSM continues to review the progress made in revising Coal PITS-2. The DMLW is working on adding more information into its data management system, primarily from other State agencies. This is an ongoing project that is discussed in more detail in Section VII.

During the 1999 evaluation year, DMLW made available via the Internet, the coal program regulations. During the last two evaluation cycles, DMLW has posted all of the active coal permits on the Internet. For those interested, the Internet address is:

www.dnr.state.ak.us/mine.wat/coal/coal.htm

In late 1999, Alaska received its first permit related application electronically. Since that time, DMLW has expanded and improved its electronic permitting program. Currently, all active permits are in an electronic format, accessible by the public. Also, DMLW inspection reports are posted electronically.

The DMLW is effectively maintaining and administering the Alaska Surface Coal Mining and Reclamation Act.

V Success in Achieving the Purposes of SMCRA as Determined by Measuring and Reporting End Results

To further the concept of reporting end results, the findings from performance standard and public participation evaluations are being collected for a national perspective in terms of the number and extent of observed off-site impacts, the number of acres that have been mined and reclaimed and which meet the bond release requirements for the various phases of reclamation, and the effectiveness of customer service provided by the State. Individual topic findings are available in the Olympia, Washington OSM Office. The information provides additional details on how the following evaluation and measurements were conducted.

A. Off-site Impacts

Routinely, the Reclamation Specialist from OSM's Olympia, Washington Office conducts annual oversight inspections at the active surface coal mine sites located in the Healy, Alaska area. These oversight inspections, conducted jointly with staff from the

Alaska DMLW, are usually scheduled for late September. The reason for this is two-fold: (1) to coincide with the end of the oversight cycle, and (2) to allow for the maximum amount of growing time so as to be able to evaluate vegetation success more accurately. However, due to the tragic events of September 11, 2001, and to budget considerations, this year's trip had to be cancelled.

This doesn't deter OSM from monitoring the State's performance in the areas of inspection and enforcement. OSM receives an electronic copy of each DMLW monthly inspection report, complete with digital photos. Additionally, OSM is provided copies of all enforcement actions and related documents generated by DMLW. This, coupled with routine telephone conversations with the DMLW staff and OSM's familiarity with the Alaska mines, provide OSM staff with the necessary tools to assess the situation.

Based on telephone conversations with the manager of Alaska's coal program and a review of each monthly inspection report and each enforcement related document, none of the five Notices of Violations issued during this evaluation cycle were for observed off-site violations. In summary, of Alaska's 10 inspectable units, none were found to have associated off-site impacts.

B. Reclamation Success

As Table 5 indicates, the State did not receive nor process any Phase I, Phase II, or Phase III bond release applications during this evaluation year.

C. Customer Service

The DMLW has actively sought to increase public awareness and involvement. Not until UCM's recent leasing/repermitting activities in the more populated Sutton area, has the public shown much interest in Alaska's coal program. DMLW attempts to meet regularly with the Sutton Community Council, the Chickaloon native community and the Buffalo Mine Road Community Council and when appropriate, make UCM staff available to the same groups. The DMLW staff, on numerous occasions, has conducted site visits with interested citizens living in the Sutton area; however, the staff at DMLW does not anticipate much in the way of public participation or input until active mining commences in the Sutton area. It should be noted that the State is scheduled to process a permit renewal application for the Wishbone Hill site; it is possible that this could trigger an increase in public involvement. There were no citizens complaints filed with the DMLW during this evaluation cycle.

VI OSM Assistance

Currently, the Division's database files (permits, inspection reports, photographs, etc) are accessible to the Olympia Office via wide-area network. In order to assist DMLW in its implementation of paperless permitting, OSM provided electronic permitting funds for a

Canon digital video camera to capture images to be stored and used in DMLW's electronic permitting database.

OSM's Technical Librarian filled 3 reference requests from DMLW; in addition, the Office of Technology Transfer (OTT) provided four publications and two CD-ROMs to the DMLW library.

OSM's Bonding Specialist provided onsite, technical assistance to Alaska's DNR staff by presenting a 3-day bonding workshop. The workshop covered bonding regulations, bonding instruments, and procedures for four separate regulatory program staffs covering such topics as reclamation bonding for coal mining, bonding for non-coal mining and leasing of State lands. Prior to attending the OSM workshop, the staff indicated that they had not received any formal training on bonding or financial assurance processes. Therefore, this assistance benefited the State by providing practical and legal information the staff needed to review a variety of bonding instruments for compliance with the various bonding programs. At the State's request, the Bonding Specialist reviewed procedures and bond forms and provided guidance and draft language to enhance the bond forms used by the Department of Natural Resources. In response to a DMLW request, the OSM Bonding Specialist provided the State with a quality control review of its coal mining reclamation bonds. Finally, the State staff was provided technical assistance on a variety of other bonding topics, including self-bonding and periodic updates to the list of surety companies authorized by the U. S. Treasury in Circular 570.

OTT provided the opportunity for one DMLW staff person to attend the 18th national meeting of the American Society for Surface Mining and Reclamation, held June 3-7, 2001 in Albuquerque, New Mexico. The theme of the conference was, "Land Reclamation – A Different Approach". Ed Fogels, DMLW's Coal Program Manager, made a presentation entitled, "Digital Photography Systems" to the full session. Mr. Fogels then made an enhanced presentation to the Western Regional Technical Team by including information on Alaska's digital imaging program, training that his staff received from KODAK and DMLW's dedicated server for digital photographs.

In April of 2001, OSM's National Technical Training Program (NTTP) provided a 21/2-day course entitled "Effective Writing" to the staff of DMLW. To maximize the benefits of the on-site course, staff from other DNR Divisions having a support role in the coal program also was invited to attend. The training course was well attended and very well received.

Also, during the evaluation period, routine assistance was provided to DMLW in the areas of permitting, inspection and enforcement, forms development, rules interpretation, program maintenance and data management.

OSM's Olympia Office has a great working relationship with the DMLW staff, and as such, many informal telephone conversations take place in which various issues are discussed. Many times ideas are exchanged and suggestions are offered that don't really

constitute formal OSM assistance; however as long as both agencies are satisfied with such an arrangement, it will continue.

VII General Oversight Topic Reviews

As in previous evaluation cycles, OSM and DMLW have chosen to keep the program oversight process simple and flexible, concentrating on a few program areas and being able to adjust oversight objectives quickly if agreed upon by both parties. This approach is workable due to the small scale of the Alaska program and industry operating in the State. Another factor is the solid working relationship and open lines of communication between the DMLW staff and OSM staff. A core of two people anchors the oversight team with technical support being provided on an Ad Hoc basis. As addressed in the Annual Evaluation Plan, OSM and DMLW identified a few program areas that warranted some follow-up evaluation from previous years. The program areas are identified below:

- DMLW's maintenance of its approved program
- DMLW's improvements to the Coal Permit Information Tracking System
- DMLW's handling of the Nerox Power System permit

Additionally, OSM receives information concerning several other general program areas as agreed upon in the Annual Evaluation Plan.

➤ **Maintenance of Approved Program**

This topic, a follow-up topic from the last evaluation cycle was selected because not much was done to address program maintenance this past year. OSM's Acting Director and OSM's Management Council have identified program maintenance as a high priority for the agency. This is due in part because some citizen-based lawsuits have been filed against some other State regulatory agencies for not adequately maintaining their approved program in accordance with SMCRA. During the 2001 evaluation year, OSM prepared and forwarded to DMLW a complete list of needed modifications to the Alaska program. The State has committed to working with OSM to resolve the remaining issues.

A tentative schedule and draft list of program revisions were submitted by DMLW to OSM for review and comment. Due to budget restraints and the events of September 11th, a working meeting planned in Anchorage did not take place. Numerous telephone conversations between OSM staff and DMLW staff concerning program amendment issues took place during the evaluation year. The DMLW Coal Program Manager is planning a visit to Olympia, Washington in early 2002 to work on the program amendment package with OSM staff. Although this matter has been lingering for some time, a great deal of discussion and groundwork has been accomplished to date. With the renewed commitment from both staffs, a great deal of progress should take place during the next evaluation cycle.

➤ **DMLW's Improvements to the Coal Permit Information Tracking System**

The State continues to revise and improve its data management system. The second-generation system, dubbed Coal PITS-2, is a much-improved version of the initial model, Coal PITS. However, DMLW feels that it can further improve the permit information tracking system. While attending an OSM sponsored "Electronic Permitting" forum, the Alaska representative was impressed with a presentation made by a representative from the State of Colorado. After discussing Coal PITS-2 with the Colorado representative, the DMLW staff thought that the Colorado system had some components worthy of inclusion into the Alaska data management system. The Colorado staff member was asked if he could possibly provide some technical support to the State of Alaska in further developing its system.

OSM's Office of Technology Transfer was approached and asked to help arrange some training and actual developmental support for the State of Alaska. OSM agreed to cover the travel costs associated with the Colorado staff member's trip to Anchorage to train the entire DMLW staff as well as other appropriate DNR staff. In addition, the DMLW was interested in getting some technical support and assistance in upgrading its Coal PITS-2 system to more closely resemble the Colorado permit tracking system, thought by some to be one of the best. The training/support visit was scheduled for mid-September. Due to the events of September 11th, the trip was postponed until the next fiscal year. OSM will continue to evaluate the State of Alaska's progress in this matter.

➤ **DMLW's Administration of the Nerox Power Systems Permit**

This is a follow-up review topic that continues to be a nagging problem for DMLW staff and management.

Nerox Power Systems (Nerox) holds a permit for the Jonesville underground coal mine located near Sutton, Alaska, about 60 miles northeast of Anchorage. Nerox permitted the previously disturbed and abandoned site with the intention of reopening the underground mine and taking advantage of the exiting transportation system and proximity to Anchorage. After an initial flurry of on-site improvements and monetary investments, Nerox encountered some financial setbacks, and coupled with decreasing coal prices never mined any coal from the Jonesville site. Concurrently, Nerox lost a court case and was ordered to pay a sizeable judgment, \$300,000, to three contractors for work performed at the mine. The decision remains under appeal by Nerox, and the outcome is being watched closely by the State.

DMLW not wanting to forfeit the bond and possibly force Nerox into bankruptcy, attempted to work with the permittee to ensure that environmental controls were in place and that no off-site impacts occurred while Nerox attempted to find a buyer for the mine. Both the State and OSM thought that this was the best approach, in light of the fact that several other companies had expressed interest in the Jonesville site.

During the 2000 evaluation year, DMLW was in the process of reviewing a permit transfer application. All NOVs and Reclamation Directives had been complied with and all abatement work had been accomplished. A Nerox employee was given the responsibility to address permit related deficiencies as well as ensure on the ground compliance during the permit transfer process. It became apparent that the permit transfer was not going to happen due to problems associated with the State lease.

Since DMLW was planning to combine the permit transfer effort with the permit renewal effort in an attempt to clean up the current permit, they had to shift priorities and focus solely on the permit renewal effort. Nerox has submitted a timely permit renewal application to DMLW for processing, but has been less than diligent in responding to the State's request for additional information. As in the past, lack of money seems to be the problem.

The DMLW has had some successes and some setbacks in working with Nerox in re-permitting the Jonesville Mine. At the end of the evaluation period, all requested work on the ground had been accomplished and DMLW inspectors have not identified any off-site impacts. DMLW has worked with other State agencies involved with this site, primarily the Land Division concerning issues associated with the Mental Health Trust Fund Land status that the site carries. At the end of this evaluation period, Nerox was attempting to renegotiate its lease with the State due to the lack of due diligence in developing the site. Also the DMLW was considering

placing a drop-dead date upon Nerox relative to the lack of a timely response to DMLW's request for additional permitting information.

The DMLW continues to work with the permittee to ensure compliance with environmental requirements while at the same time avoiding action that may trigger the permittee to forfeit his reclamation bond. The Chief of the Coal Regulatory Program has indicated that he is willing to continue working with the permittee a little longer, however the clock is ticking. He also stated that he is prepared to initiate bond forfeiture proceedings if the State's interest were about to be jeopardized.

While OSM has agreed with DMLW's approach to date, the State is encouraged to draw a line in the sand and not allow this situation to continue much longer. The permittee understands DMLW's position and the limited options available to them. OSM strongly encourages DMLW to bring this issue to closure during the next evaluation year.

For more information on these evaluation topics, or any other aspect of the 2001 annual oversight process, feel free to contact:

Office of Surface Mining
Evergreen Plaza Building, Suite 703
711 Capitol Way
Olympia, Washington 98501
Attn. Glenn Waugh

(360) 753-9538

APPENDIX A:

These tables present data pertinent to mining operations and State and Federal regulatory activities within Alaska. They also summarize funding provided by OSM as well as Alaska staffing. Unless otherwise specified, the reporting period for the data contained in all of the tables is October 1, 2000 to September 30, 2001. Additional data used by OSM in its evaluation of Alaska's performance is available for review in the evaluation files maintained by the Olympia, Washington OSM Office.

APPENDIX B: