OFFICE OF SURFACE MINING ANNUAL EVALUATION REPORT

for the

New Mexico Abandoned Mine Land Reclamation Program Evaluation Year 2001

(October 1, 2000 through September 30, 2001)



Cover Photo: Sugarite Reclamation Project Sugarite, State Park Raton, New Mexico

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INTRODUCTION

This annual evaluation report is produced by the Office of Surface Mining Reclamation and Enforcement (OSM) in fulfillment of its Statutory responsibility [under the Surface Mining Control and Reclamation Act of 1977, (SMCRA)] to annually assess the accomplishments of the New Mexico Mining and Minerals Division, Abandoned Mine Lands Reclamation Program (New Mexico AML). The annual report consists of OSM's oversight findings based on field inspections and meetings with the New Mexico AML during the 12-month evaluation period beginning October 1, 2000 and ending September 30, 2001.

OSM has responsibility under SMCRA for approving State and Tribal AML Programs in carrying out the goals of Title IV of SMCRA. The primary goal of Abandoned Mine Land (AML) Programs is to mitigate the effects of past coal mining by reclaiming abandoned mines. The primary emphasis is placed on correcting the most serious problems endangering public health, safety, general welfare, and property. Once this is accomplished, secondary emphasis is placed on remediation of mining related impacts on impacted communities.

On behalf of the Secretary of the Interior, OSM administers the Abandoned Mine Reclamation Fund by awarding grants to States and Tribes, to cover their administration and reclamation costs of running their Programs. The OSM Western Regional Coordinating Center's (WRCC) Albuquerque Field Office (AFO) through its oversight process, annually monitors the progress and quality of the New Mexico AML Program.

In conducting this annual review, AFO followed OSM Directive AML-22, which contains general procedures for evaluating Abandoned Mined Land Reclamation Programs. This requires OSM and State Programs to annually develop an oversight workplan with specific topics (principles of excellence) for evaluation during the evaluation period. The workplan identified specific performance measures to assess Program performance for each principle of excellence and to make recommendations to improve performance, if necessary.

During the evaluation period, OSM visited newly reclaimed sites to see ongoing reclamation and to review contractor performance.

PART I. GENERAL

The New Mexico AML Program within of the Mining and Minerals Division, which is within the New Mexico Department of Energy, Minerals and Natural Resources. The AML Program consists of eleven employees, including eight full time positions and three part time positions that are partially funded by other Bureaus in the Mining and Minerals Division.

The State of New Mexico contains a diversity of ecosystems ranging from high, steeply sloping mountainous areas to semiarid plains and arid desert. Vegetative communities and wildlife are equally diverse across the state. Average rainfall ranges from a high of approximately 20 inches per year to a low of about six inches depending on elevation. New Mexico-s coal resource underlies approximately one-fifth of the state-s surface (over 15 million acres) and totals over

40.6 billion short tons of coal. A significant amount of pre-law mining has occurred within the state since the turn of the century, leaving numerous high priority hazards. New Mexico's demographics are gradually changing, causing once isolated hazards to now be accessible to its citizens.

New Mexico received primacy under SMCRA on December 31, 1980. New Mexico-s AML Program was subsequently approved by the Secretary of Interior on June 17, 1981. Since that time, the New Mexico AML Program has been working on it coal hazard inventory and high priority non-coal. Although the State has not yet certified completion of its high priority coal reclamation, the bulk of the high priority coal inventory is completed.

Historically, much of the New Mexico AML Program's reclamation work has involved abandoned coal mines. As the State continues to reclaim the high priority coal hazards in its inventory, resources will also be directed toward safeguarding equally hazardous abandoned Anon-coal@mine sites in its inventory. Because of the thousands of abandoned mine sites remaining to be addressed, it is projected that the program will not have enough AML money to complete all of the high priority non-coal hazards that exist if the AML fund expires in 2004 as scheduled. Deaths and serious injuries associated with these hazards continue to occur.

Status of Fee Collections and Fund Distributions:

About \$3 million in AML fees are collected annually from active coal production in New Mexico and is deposited in the National AML Fund along with fees from other States and Tribes. Congress then appropriates AML funds annually to OSM that are distributed via a funding formula to States and Tribes. States and Tribes then apply for these funds thru the grants process. Such grants contain a construction subaccount or an administration subaccount. Administration subaccounts are closed out annually. Construction subaccounts are closed out in three years.

As of September 30, 2000, OSM had collected about \$44,615,000 in AML fees from New Mexico coal mines and distributed about \$27,760,000 to New Mexico, leaving an undistributed State Share balance of about \$16,850,000. The 2001 distribution to New Mexico AML was about \$1,900,000 bringing the total cumulative distributions to New Mexico up to about \$18,740,000.

OSM requested that the New Mexico AML Program reduce its "distributed" State Share balance down during EY-2001. New Mexico AML has likewise noted that while OSM allocates or distributes money in October when its fiscal year begins, the State does not apply for those funds until after July 1st (9 months later) when its fiscal year begins. Although New Mexico supports OSM=s efforts to gain increased annual funding for AML Programs nationwide, because of the difference in fiscal years, it cannot obligate funds in coordination with OSM funding. New Mexico also considers it a good management practice to retain sufficient funding in reserve to plan to operate the program for at least two years if necessary should fee collections not extend beyond 2004.

The New Mexico AML Program had a carry over balance of \$4,353,322.00 in the distributed State Share at the end of EY-2000. At the start of EY-2001 (October 1, 2000), the State had a total of \$6,450,006.00 available in the "distributed" State Share for New Mexico AML to draw from. During FY-2001, New Mexico AML applied for two grants for a total draw down of \$5,303,941.00. These two draw downs left a balance of \$1,146,064.00 in the distributed State Share at the end of EY-2001. The New Mexico AML Program was able to decrease the distributed State Share balance by \$5.3 million! OSM commends New Mexico for addressing OSM's request to reduce the balance. New Mexico AML has also agreed to significantly reduce its distributed balance in EY-2002, their target is to reduce the balance to \$500,000.00.

PART II. PROGRAM ACCOMPLISHMENTS

Summary of Project Work

During this evaluation year, the New Mexico AML Program completed, or have under construction, about \$1,569,000 in On-the-ground projects. These activities were at Carthage Phase III; Sugarite Phase II and Phase III; Orogrande Phase I; and Lordsburg II/Gore Canyon.

Project development activities included NEPA and SHPO compliance surveys and environmental assessment work at Mogollon, Cerrillos, Derry I-25 Phase II, Bogg Canyon, Lake Valley, San Pedro, Dolores, Spar Group, Sugarite IV, and Yankee Canyon/Vokovich.

Post completion inspections were made at Derry I-25, Gage, Stephenson-Bennett, Socorro West, Carthage, Oscuro, Rough Mountain, Black Copper, Sugarite, and Casamero Lake.

New Mexico AML is commended for its dedicated efforts to identify the extent of bat populations and the species of bats that inhabit these abandoned mines (artificial habitat). It is noted that New Mexico AML is careful to identify threatened or endangered species. Also, some bat grates provide for access by owls and some restrict owl access.

New Mexico AML developed an agreement with the Bureau of Land Management (BLM) under which they received approximately \$250,000 from BLM to provide temporary safeguarding measures for non-coal hazards located on BLM lands. The first project to be included in this partnership effort is Orogrande.

Partnership & Public Outreach:

In addition to its track record for sound engineering and environmental science, the New Mexico AML program has established a reputation for promoting environmental reclamation and preservation on other fronts, including: public outreach to land owners, education of the public regarding hazards associated with abandoned mines, preservation of threatened or endangered species, protection of wildlife, and technical assistance to State and Federal Agencies.

OSM has requested that AML Programs nationwide consider promoting "reforestation" efforts as a means of enhancing the quality of the environment and wildlife and to promote efforts to

address global warming. New Mexico AML has demonstrated strong support of reforestation efforts through its Sugarite Project near Raton New Mexico. Most of the sites reclaimed in the last few years include tree and shrub seedlings in the re-vegetation plan. This aspect of reclamation is an expensive undertaking in most areas of New Mexico due to significant vegetation losses experienced in the first year because of the arid climate.

New Mexico AML is currently working with the Los Alamos National Laboratory to develop a Memorandum of Understanding to allow the Lab to gather carbon sequestration data from AML sites in the State. Carbon sequestration removes carbon dioxide from the air by puting carbon into the soil and giving off oxygen into the air as a waste product. The State is considering allowing the placement of remote measuring devices in the reclaimed soils to determine how much carbon is being added to reclaimed soils versus unreclaimed soils in predominately Pinon / Juniper areas. This effort is consistent with OSM's national reforestation effort.

The New Mexico AML Program continues to work with the Navajo Nation AML Program under a memorandum of understanding for reclamation of the Black Jack Mine north of Thoreau, New Mexico, which is situated in an area of mixed State and Tribal jurisdiction. Navajo Nation AML is currently conducting radiological monitoring and mapping at the site and providing necessary communication and gathering concurrences from Navajo-speaking residents in this area.

New Mexico AML=s willingness to provide technical assistance to other AML programs, is considered an accomplishment. OSM finds that it is cost effective for AML programs to assist one another in technologies, sharing experience and knowledge and specialized equipment.

In 1999, New Mexico AML assisted authorities with the investigation of the circumstances that led to the death of a teenager at a non-coal AML site in southern New Mexico near Oro Grande. In 2000, New Mexico AML prioritized the site as a result of the fatality and performed project planning to reclaim the site and eliminate the hazard. This year, New Mexico AML completed project designs & NEPA work and initiated reclamation of the site.

NEPA Clearances:

OSM has determined that New Mexico AML=s NEPA compliance activities are effective and meeting Program requirements. New Mexico AML prepares Environmental Assessments and NEPA clearance documents using in-house staff and contractors as necessary. The Program has had an ongoing contract with the University of New Mexico for bat surveys and closure recommendations for habitat enhancement and preservation. New Mexico AML is also working with the University of New Mexico on a study to evaluate post-construction / reclamation bat habitat for bat compatible mine closures. The State realizes that bat habitat is in constant flux and bats are being displaced. The goals of the effort are to preserve known habitat, to evaluate the effectiveness of current bat compatible closure methods, and to create new habitat in suitable areas where current use is minor due to human visitation, etc. New Mexico has been extremely active in the nationwide effort to standardize bat closure designs and to implement bat compatible closures.

This year New Mexico submitted NEPA packages and OSM issued Findings of No Significant Impact with Authorization to Proceed for three new projects, Gore Canyon, Lordsburg, and Oro Grande. OSM considers the technical staff (engineering, biological, and cultural & historic) to be highly competent. New Mexico's field staff is also highly experienced and competent and they have accurately ensured that construction contractors comply with all environmental restrictions.

Program Maintenance:

On July 24, 1995, New Mexico submitted to OSM a proposed amendment to its AML Plan, regarding the Abandoned Mine Reclamation Act of 1990 and the Energy Policy Act of 1992. The amendment was submitted in response to a September 26, 1994, Part 732 letter. OSM published a final rule in the July 24, 1996, Federal Register approving part of New Mexico AML-s amendment and requiring New Mexico to submit additional amendments to address remaining concerns. The New Mexico AML program requests a revision to its Statute at a time when a significant amount of additional business is put before the Legislature. During the evaluation period, no amendments were submitted with regard to the AML Plan. New Mexico and OSM have agreed to look into what required amendments were placed on the AML Program to determine what it will take to address the concern. New Mexico AML has also committed to resolving the issue this year if possible.

PART III. RESULTS OF ENHANCEMENT AND PERFORMANCE REVIEWS

The oversight workplan for EY-2001 identified three topics or principles for review. The goal of these principles is to evaluate the quality of on-the-ground reclamation work and to generate ideas for improving the program. In evaluating these principles, New Mexico AML and OSM held meetings, inspected various reclamation sites, reviewed quarterly AMLIS printouts and reviewed grants files, NEPA Documents, contract specifications, and procurement files.

Principle No. 1 - On-the-ground reclamation is to be achieved in a timely and cost-effective manner.

Review Findings:

The objective of this principle is to determine if projects are reclaimed in a timely manner using state of the art reclamation techniques that minimizes the need for future maintenance, promotes landscape stability; establishes vegetation and enhances wildlife.

Project maintenance was evaluated by assessing the long term landscape stability of reclaimed sites based upon inspection of reclaimed sites for erosion controls and establishment of vegetation. Hazard remediation work was evaluated by inspecting the closures, etc., prior, during, and after final reclamation. Overall reclamation success was evaluated based upon the effectiveness of the project design, closure methods and the ability to safeguard the site, and also on the capability of the reclaimed site to provide habitat and food / water sources to for wildlife.

Revegetation design (plans and specifications) is important considerations for establishing quality habitat for wildlife enhancement.

This year's reclamation schedule provided the opportunity for OSM to inspect the various phases of the Surgarite Project. In additon, OSM attended two pre-bid site tour for Phase 3 of the Sugarite Project and the pre-bid site tour for the Oro Grande Project. The Sugarite Gob Reclamation Project was inspected in conjunction with the pre-bid tours on April 10, 2001 and July 24, 2001. The Oro Grande site tour was on July 12, 2001. Prior to the site visits the Project design specifications were reviewed in the office.

Sugarite Gob Reclamation Project:

This project is located in the mountains just east of Raton, New Mexico within the Sugarite State Park. Huge gob piles from past coal mining spill from the top of the mountain to almost touching the stream below. The area was not only an erosion problem but also an eyesore for anyone visiting the park. This project represented a reclamation challenge because of the extreme erosion channels, the toxic gob / soil material, the high rainfall, steep slopes, proximity to the stream channel, wildlife concerns and the nature of the State Park itself. The amount of gob material that exists was too much to consider any relocation measures, which meant that the reclamation had to occur in place. In addition, New Mexico AML felt that trying to relocate the material had the potential to cause more environmental degradation that leaving the site alone because some stabilization had occurred due to the presence of some vegetative growth.

The reclamation method decided upon by the New Mexico AML Program consists of a combination of branch packing of cut trees and tree limbs anchored into the erosion channels, combined with terracing using hay bales and straw waddles and re-enforced with an aggressive revegetation plan that includes numerous tree and bush seedlings. New Mexico's branch packing methods has proven to be an overwhelming success story! New Mexico is commended for the effort and their willingness to take the risk of investing substantial funds toward this project based upon sheer research and confidence in their experience and expertise. In selecting diverse seedlings, consideration was given to the erosion control that they would provide through the root system as well as species that would provide food, shelter and habitat to area wildlife as well.

The huge gob piles appear to be stable and the stability of the slopes increases as brush and trees grow and the root system anchors itself along with the gob material. Evidence of erosions is apparent where the slopes and erosion have covered the branch packing, however, at this point the reclamation work appears to be anchoring the gob material in place and vegetation is taking root. This has been an innovative reclamation technique to improve stability that appears to be working. New Mexico AML has supplemented the soil / gob material with chemicals to neutralize pH in various locations and has also applied soil nutrients in various ways depending on the results of soil analysis data. This has likely also contributed to the successful results in getting vegetation growth on the site.

Revegetation success is demonstrated by the amount of cover, diversity of plant species, value of the seed mix that was selected. In addition, New Mexico AML introduced various features such as dead branches and planting dead trees as roosts for birds and to provide nitches for smaller

animals and rodents. The presence of bears was evident from their digging under the straw bales and straw waddles for insects. Obviously, birds, squirrels, bear and rodents are using and foraging at the site.

Oro Grande Safeguard Project:

The pre-construction inspection of the Oro Grande Project revealed the New Mexico AML Program had developed a comprehensive plan for safeguarding numerous abandoned hard-rock minesites in this area. The scope of this project includes safeguarding 80 mine features, 19 of which will be safeguarded with bat compatable closures. All disturbed areas are to be fully reclaimed and mine waste properly disposed of. The project will involve the disturbance of approximately ten acres.

The New Mexico AML Program is commended for their outstanding voluntary efforts to conscientiously incorporate provisions for food and habitat into their reclamation designs that serve to promote, protect, and enhance native wildlife. This review determined that the New Mexico AML Program approaches its reclamation work within the context of enhancing the total ecosystem of the surrounding area.

Principle No. 2 - <u>Information on AML program operations and accomplishments should be</u> gathered and maintained in the AMLIS database in a timely manner.

Review Findings:

The objective of this principle is to determine how well New Mexico AML: 1) Complies with OSM Directive AML-1 by maintaining (inputting or updating) information in AMLIS regarding funding and accomplishments; and 2) Maintains the data to accurately reflect the inventory of reclamation needs within the State.

AMLIS provides an inventory (picture) of the reclamation needs within each State and Tribal Program. AMLIS is a centralized database that contains a nationwide inventory of AML problem areas and associated hazards. It was originally intended to track all hazards & costs associated with abandoned coal sites. Currently AMLIS only tracks coal-related projects and those Anon-coal@ projects that are either funded or completed. Consequently, there is no inventory in AMLIS that documents or tracks the amount of un-reclaimed Anon-coal@ hazards that exist, the projected cost to reclaim them, or their associated priority. For example, the number of vertical openings that exist from abandoned mineral (non-coal) mines in New Mexico is expected to number in the thousands and this information is not included in AMLIS.

Accomplishments of the AML Program are reviewed under AMLIS every year. However, this principle involves the actual maintenance of the database to accurately reflect the status of the inventory. State and Tribal Programs are expected to update AMLIS accomplishments in a timely manner each year.

New Mexico AML has achieved success in its maintenance of data in AMLIS in the past. This year pertinent AMLIS data was entered into the database as required. This year AMLIS

accomplishments reflect that mostly gob related work was completed because the State had already addressed the high priority hazards at these sites in earlier phases of the projects.

Principle No. 3 - Programs should have systems in place to ensure accountability and responsibility for spending AML fund expenditures and a process to assure that such systems are working.

Review Findings:

The measure for this principle is that Programs should develop and maintain internal controls to ensure that proper procedures for grants and other activities are properly followed. These systems should include, but not be limited to, accounting records, contracting and procurement records, payroll records, inventory records and project records.

This evaluation period, the workplan selected property inventory and accountability for a cyclical review.

The review included OSM grant-purchased property for both Regulatory and Abandoned Mine Land Programs. OSM Form 60 (separate form for each program), was used as a basis for verifying the type of equipment being reviewed, including manufacturer, year manufactured, model number(s) and serial number(s).

Equipment was reviewed at the New Mexico New Mexico AML Office at 1220 South Saint Francis Drive in Santa Fe, New Mexico. The review revealed no discrepancies. Information on the OSM Form 60's was found to be current and accurate. OSM will continue to monitor this area of the New Mexico AML Program as a routine responsibility of OSM=s grants management function. Property records should be reviewed again in EY-2003.

PART IV. AML INVENTORY STATUS

Because very little surface coal mining occurred in the State prior to SMCRA, most reclamation work involves the reclamation of underground mine hazards. Although the acreage associated with underground mining is small relative to surface mining, the numbers of hazards encountered are high and the danger associated with these hazards is extreme. The New Mexico AML Program often refers to abatement of hazards such as mine openings and shafts and the removal of hazardous structures and facilities as safeguarding of the site. Reclamation performed by the AML program has predominately returned the land to its premining land use of grazing, however, New Mexico has also incorporated other post-reclamation land uses, such as wildlife enhancement, into its designs.

The AMLIS database contains an inventory of priority 1, 2, and 3 hazards associated with abandoned coal mines and a list of non-coal abandoned mines that have been funded (or completed). The following tables show AMLIS accomplishments for EY-2001 and cumulative accomplishments to date.

Table 1 New Mexico AML Reclamation Program EY-2001 Accomplishments *

Problem Type and Description	Completed EY-2001**	Costs	
Benchs	0.0 acres	\$	0.00
Clogged Stream Lands	0.0 miles	\$	0.00
Dangerous Highwalls	0 feet	\$	0.00
Dangerous Impoundments	0 (count)	\$	0.00
Dangerous Piles & Embankments	2.0 acres	\$	210.000.00
Dangerous Slides	0 acres	\$	0.00
EF-Equipment/Facilities	0 (count)	\$	0.00
Gobs	5.0 acres	\$	321,000.00
Highwalls	0 feet	\$	0.00
Hazardous Equipment & Facilities	0 (count)	\$	0.00
Haul Roads	0.0 acres	\$	0.00
Industrial/Residential Waste	0 acres	\$	0.00
Mine Openings	0 (count)	\$	0.00
Other	0 (count)	\$	0.00
Portals	0 (count)	\$	0.00
Pits	0.0 acres	\$	0.00
Polluted Water: Agric. & Indust.	0 (count)	\$	0.00
Subsidence	0.0 acres	\$	0.00
Spoil Areas	0.0 acres	\$	0.00
Surface Burning	0.0 acres	\$	0.00
Slurry	0.0 acres	\$	0.00
Underground Mine Fires	0.0 acres	\$	0.00
Vertical Openings	0 (count)	\$	0.00
Water Problems	0 (count)	\$	0.00
NEW MEXICO TOTAL COSTS		\$	531,000.00

^{*} This table is based on a Problem Type Unit and Cost Detail Report from the Abandoned Mine Land Inventory System as of 09/31/01. Neither AMLIS nor this table contains an inventory of un-reclaimed non-coal hazards.

Table 2
New Mexico Abandoned Mine Reclamation Program
Cumulative AML Reclamation Accomplishments YTD

Problem Type and Description	Completed to Date**	Costs	
Benches	3.0 acres	\$	7,301.00
Clogged Stream Lands	0.5 miles	\$	2,500.00
Dangerous Highwalls	0 feet	\$	0.00
Dangerous Impoundments	0 (count)	\$	0.00
Dangerous Piles & Embankments	8.5 acres	\$	350,000.00
Dangerous Slides	0 acres	\$	0.00
EF-Equipment/Facilities	12 (count)	\$	13,635.00
Gasses: Hazardous / Explosive	0 (count)	\$	56,563.00
Gobs	60.0 acres	\$	1,450,148.00
Highwalls	0 feet	\$	0.00
Hazardous Equipment & Facilities	17 (count)	\$	119,467.00
Haul Roads	6.0 acres	\$	2,300.00
Hazardous Water Bodies	0.0 acres	\$	0.00
Industrial/Residential Waste	0 acres	\$	0.00
Mine Openings	4 (count)	\$	7,140.00
Other	0 (count)	\$	0.00
Portals	433 (count)	\$	1.754.990.00
Pits	2.0 acres	\$	3,890.00
Polluted Water: Agric. & Indust.	4 (count)	\$	13,400.00
Polluted Water: Human Consumption	1 (count)	\$	1,728.00
Subsidence	36.6 acres	\$	4,617,644.00
Spoil Areas	2.0 acres	\$	2,301.00
Surface Burning	35.0 acres	\$	760,406.00
Slurry	2.0 acres	\$	1.00
Underground Mine Fires	32.0 acres	\$	234,983.00
Vertical Openings	640 (count)	\$	2,122,337.00
Water Problems	0 (gal./min.)	\$	0.00
NEW MEXICO TOTAL COSTS		\$	11,521,534.00

Although not all non-coal hazards in New Mexico are inventoried in AMLIS, preliminary estimates show that at least 2,000 additional un-reclaimed portals and 14,000 vertical openings exist which are associated with non-coal that require safegarding (hazard abatement / reclamation).

PART V. Summary and Recommendations:

OSM=s evaluation concludes that the New Mexico AML program is exemplary in that it makes cost-effective use of its AML funds while achieving quality reclamation. Reclaimed New Mexico AML sites require little maintenance, with the exception repairing infrequent damage due to vandalism. OSM determined that New Mexico's overall use of AML funds during this evaluation period is consistent with the priorities established under SMCRA.

Construction work accomplished by the New Mexico AML program is done under contract through competitive open bid, wherein all bids are publicly opened and contracts are awarded to the low-bidder. Both open competition and sound project designs ensure that all reclamation work is cost-effective. Field oversight inspections have confirmed that effective monitoring of contractors by New Mexico AML ensures that all reclamation work is of high quality, timely, and consistent with contract specifications.

New Mexico is to be commended for reducing their distributed State Share balance. The Program has actively supported partnership activities with other State and Tribal AML Programs in the southwest. New Mexico has excelled in its initiative to protect bat populations by its innovative design closures. In addition, the State had done an excellent job of following through with studies to assess the impact and success of their projects in protecting bat populations.

OSM requests that New Mexico continue to place a high importance on the updating of AMLIS.

New Mexico has had an outstanding required amendment on its AML Plan since July 24, 1996. OSM recommends that this amendment requirement be resolved within the upcoming evaluation year.

OSM's review did not raise any major concerns with regard to New Mexico AML Program efficiency. OSM considers the New Mexico AML Program to be an exemplary Program. OSM views the New Mexico AML Program as a State partner in meeting mutual environmental goals and challenges. The Program has always been willing to provide assistance to other State and Tribal Programs and has established a cooperative, productive relationship with OSM. OSM considers it a pleasure to work with and oversee this AML Program.