

An aerial photograph of a coal mining operation in a hilly, semi-arid landscape. The mine features large piles of coal, conveyor belts, and several buildings. A winding road or path is visible in the upper portion of the image. The text is overlaid on this background.

OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

Annual Evaluation Summary Report

for the

Coal Regulatory Program

Administered by the Land Quality Division

of the

Wyoming Department of Environmental Quality

For

Evaluation Year 2004

(July 1, 2003 to June 30, 2004)

September 21, 2004

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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 Wyoming Program and the effectiveness of the Wyoming program in meeting the applicable purposes of SMCRA as specified in section 102. The report covers the period of July 1, 2003 thru June 30, 2004. Detailed background information and comprehensive reports for the program elements evaluated during the period are available for review and copying at the Casper Field Office.

The following list of acronyms is used in this report:

ACHP	Advisory Council on Historic Preservation
AQD	Air Quality Division
BLM	Bureau of Land Management
CFO	Casper Field Office
DEQ	Department of Environmental Quality
EQC	Environmental Quality Council
EY	Evaluation Year
LQD	Land Quality Division
MIER	Mine Inspection Evaluation Report
NOV	Notice of Violation
NOx	Nitrogen oxides
NTTP	National Technical Training Program
OSM	Office of Surface Mining Reclamation and Enforcement
OTT	Office of Technical Transfer
PRBRC	Powder River Basin Resource Council
RSI	Random Sample Inspection
SHPO	State Historic Preservation Office
SMCRA	Surface Mining Control and Reclamation Act of 1977
TDN	Ten-Day Notice
TIPS	Technical Information Processing Systems
USFS	United States Forest Service
USFWS	United States Fish and Wildlife Service
WQD	Water Quality Division
WRCC	Western Regional Coordinating Center
WOC	Wyoming Outdoor Council
WWF	Wyoming Wildlife Federation

II. Overview of the Wyoming Coal Mining Industry

Wyoming is the top coal producing state in the nation. Table 1 shows the past three years' coal production for Wyoming. Over ninety-nine percent of the current coal production in Wyoming is from surface coal mines and 92 percent of all coal produced is being mined in the Powder

River Coal Basin near Gillette, Wyoming. Until 1954, underground mines out-produced surface mines, but in that year surface mines began to dominate production. By the late 1970's, surface coal mining production in the Powder River Basin became a major contributor to the Nation's total coal production. Coal-bearing formations underlie more than 40,000 square miles, or approximately 41 percent of Wyoming's total land area. The coal mining industry directly employs approximately 4,788 people providing substantial income and secondary employment in the State. Approximately 97 percent of coal produced in Wyoming is used for electrical generation in 37 states, Canada and Spain. Coal production increased 1 percent in the last year and over 10 percent in the past 4 years.

The Wyoming Geological Survey estimates the quantity of Wyoming open pit coal reserves is in excess of 26.3 billion tons; an additional 38.3 billion tons of coal reserves can be recovered by underground mining methods. Coal seams in the Wasatch Formation and the underlying Fort Union Formations can exceed 100 feet in thickness with 30 to 80 foot seams being common; 220 foot thick seams have been uncovered. Wyoming coals range from lignite to high volatile A bituminous in rank with the majority of the coal produced being sub-bituminous. Wyoming has the largest reserves of "compliance coal" in the lower 48 States; that is coal of such high quality that utility companies can burn the coal in power plants without expensive scrubbers to remove sulphur dioxide emissions. Currently, over 7 billion tons of coal is leased and 345,570 acres are permitted (Table 2).

Thirty-five active mining operations are permitted in Wyoming; 31 are surface operations, two (2) are underground operation, one permit for a dragline move from one mine site to another and one in-situ operation. The dragline move and in-situ operations are listed as "other facilities" in Table 2 of this report. Currently, twenty mines of the thirty-five permitted operations are producing coal. Four mines are in temporary cessation, and nine mines and two "other facilities" are conducting final reclamation. Table 3 shows the permitting activity for the past twelve month evaluation period.

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

A. OSM Outreach Efforts

The Casper Field Office (CFO) actively encourages public involvement in the Wyoming oversight and regulatory program. This includes CFO initiated contacts with citizen groups and participation in industry activities. Specifically, CFO has visited with citizens representing the Powder River Basin Resource Council (PRBRC), Wyoming Outdoor Council (WOC), Wyoming Wildlife Federation (WWF), and the Wyoming Mining Association (WMA). The purpose of these contacts is to notify these groups of OSM's activities and to provide the opportunity to interested parties to suggest how OSM's oversight role can assist in improving the State's regulatory program. In the past, CFO held public meetings; however, there was very limited public participation.

CFO has a good working relationship with the PRBRC, WOC and WWF. These organizations are actively involved in OSM and State permitting and inspection oversight activities. Such involvement has resulted in helpful changes in the State program, thus

improving the overall quality of the program. PRBRC has taken an active part in the oversight process and meets with the CFO a couple times a year. PRBRC and WOC have been focused more on coalbed methane and natural gas development and less on coal. WWF have been less actively in coal mining issues for several years. CFO maintains communications with these groups, informing them of meetings and issues and offering opportunities to participate in meetings.

B. Wyoming Outreach Efforts

LQD has an advisory board (Land Quality Division Advisory Board) that provides recommendations to the Land Quality Division through a public forum. The Environmental Quality Council (EQC) rules on regulatory matters for all Divisions within the Department (including LQD), and also serves as the administrative hearings board for all Divisions (i.e., Land Quality, Air Quality and Water Quality Divisions) in DEQ. Wyoming's outreach efforts include, but are not limited to LQD Advisory Board meetings, and Environmental Quality Council hearings and public meetings. LQD has met on several occasions with the special interest groups (PRBRC, WOC, WWF, and WMA) to discuss their concerns. In addition, LQD has hosted several technical forums addressing current issues.

LQD is also involved its own public participation program during their permitting, bond release, and enforcement processes. During the permitting and bond release processes, notices are published and comments are solicited. Citizen complaints are investigated as part of the enforcement process. Previous oversight reviews have found that LQD is highly receptive to the concerns of public, industry and citizen groups. DEQ also has an internet website at: <http://deq.state.wy.us/> with information for the public on permits, current rules, proposed rule changes and contact information.

CFO monitors DEQ's and LQD's meetings and outreach efforts and believes the State does a good job interacting with citizens.

IV. Major Accomplishments/Issues/Innovations in the Wyoming Program

A. Accomplishments

Although the State has not addressed all the outstanding regulatory program deficiencies, the State of Wyoming continues to administer an excellent Title V program (See VII. General Oversight Topic Reviews, B. Monitoring, Program Maintenance). Wyoming actively works to improve its program. Wyoming has taken the initiative to conduct a pilot study to determine the feasibility of using GPS and GIS in tracking and documenting bond release areas (see section C. below).

The Wyoming Department of Environmental Quality, Land Quality Division (LQD) has addressed the majority of the outstanding program deficiencies. LQD has submitted and received approval for four program amendments since 1995. There are six remaining program amendments addressing 36 program deficiencies. Two amendments have been submitted to OSM for review, and one amendment is in the final stages of the State's rulemaking process. One of the remaining amendment packages contains "Ownership & Control rules" (18 deficiencies). WRCC has suggested that LQD delay working on these

rules to the last, due to OSM's current rule litigation relating to the valid existing rights, and ownership and control rules.

OSM is currently reviewing program amendment 1-R (Highwall Retention and Coal Exploration) when approved could eliminate another 8 program deficiencies if approved by OSM during the next evaluation period.

B. Issues

1. Cooperative Agreement

On December 7, 1999, CFO hosted a forum to discuss Federal land coordination which included participants from four BLM and three LQD offices, the U.S. Forest Service (USFS), WRCC, and CFO. A work group was assembled to establish a Working Agreement under the Wyoming Cooperative Agreement.

The group developed a document outlining the coordination between the LQD and the Federal agencies including the procedures for coordinating between LQD, USFS, BLM and OSM as it relates to each agency's area of responsibilities. During the evaluation period, there have been three meetings with LQD, BLM, USFS and OSM personnel. The intent of the meetings was to discuss and clarify the implementation of the agreement. Thus far, the procedure for this agreement appear to be working and opening lines of communications among the agencies that had not occurred in the past.

2. Fugitive Dust

In the past 5 years, the Powder River Basin has experienced air quality problems cited by the EPA. A large portion of this air quality problem can be attributed to fugitive dust. During this time, the expansion of coalbed methane development in the Powder River basin quadrupled. The coalbed methane industry is not as strictly regulated as the coal mining industry, yet in many cases, existing adjacent to each other. If the air quality issue is not resolved, EPA may prohibit further expansion in the basin. State, county and both the coalbed methane and coal mining industries are working to reducing the fugitive dust and other pollutants in the Powder River Basin.

During the September OSM overflight inspection, fugitive dust was noted coming from the South Pit at the Black Thunder

C. Innovations

LQD with the assistance of OSM's WRCC and support of the Powder River Basin Coal Company's (PRBCC) North Antelope/Rochelle, and Caballo mines have initiated a GIS/GPS pilot study. The purpose of the study is to determine the feasibility of using GPS in the field and integrating the data into a GIS data bank to track reclaimed lands and bond releases. The agreement among the LQD, OSM and Powder River Basin Coal Company was signed including the North Antelope/Rochelle mine complex and Caballo mines in the GIS/GPS project. The

software and hardware installation and field work began in June 2003. As part of this effort OSM provided GPS and GIS training.

In September 2003, OSM held an “Intro To ArcGIS for Mining” course. Twelve people attended from LQD and PRBCC. In addition, WRCC specialists provided on-site training in GIS for LDQ’s Cheyenne and Sheridan offices, and worked throughout year on designing and geoprocessing data into the Wyoming GIS Bonding database.



Photo of smoke from coal fires at the North Antelope/Rochelle mine complex observed during an OSM oversight flight in 2003.

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 standards 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 reports are available in the Casper Field Office providing additional details on how the following evaluations and measurements were conducted.

A. Off-Site Impacts

For the purpose of oversight, an off-site impact is defined as anything resulting from a surface coal mining and reclamation activity or operation that causes a negative effect on people, land, water, or structures outside the permit. The impact on the resource must be substantiated as being related to a mining and reclamation activity, and must be outside the area authorized by the permit for conducting mining and reclamation activities.

During the evaluation period, LQD conducted 142 complete inspections and 251 partial inspections resulting in 7 Notices of Violation (NOVs) and no Cessation Orders (COs) being issued. CFO reviewed state inspection reports to determine if off-site impacts occurred. In addition, CFO conducted twenty-one total inspections, all of which were partial / focused inspections of coal mining operations in Wyoming (MIER). CFO did not conduct any complete inspections.

Table 4 reflects that there were two off-site impacts; one hydrology impacted observed by OSM; and one blasting violation documented by the State.

B. Bond Release

Wyoming LQD completed 14 bond release actions during this evaluation period. There was one Phase I release of 6,550 acres, and no Phase II or III releases (Table 5).

Reclamation bonds have become more difficult to acquire for mining companies, yet there is no noticeable increase in bond release applications. Instead, the mining industry appears to be attempting to change the performance requirements for bond. Only two coal companies have applied for all or portion of the three phases of bond release. Very few companies have even applied for the initial Phase I release. Instead, nearly every year the coal companies apply for bond release on area bonds, which includes the active mining pit and the rough backfilled spoils. The area bond then is applied to the current and projected mining pit are for the next year. (see the discussion below).

OSM evaluates the effectiveness of the Wyoming program based on the number of acres that meet bond release standards and have received bond release (Tables 5 and 6). The CFO believes this measure may not capture the total effectiveness of the Wyoming program due to the type of mining operations, the large size of western mining operations and company policies (not to apply for release until large management units are eligible for final bond release). The number of acres released from bond is relatively small in Wyoming when compared to those acres that have been graded, topsoiled and revegetated. Currently in Wyoming approximately 110,578 acres have been disturbed, 38,498 acres have been backfilled and graded and of those acres 13,267 acres have received Phase I release, 1,282 acres Phase II release and 876 acres Phase III released. Also, records indicate at least 8,086 acres have been reclaimed for a minimum of 10 years and may be eligible for full Phase III release. As defined by OSM Directive REG-8 (Oversight of State Regulatory Programs) it appears that the Wyoming program is not effective in facilitating and encouraging bond release, as indicated by the small number

of acres released from bond, compared to the large quantity of acreage available for release.

The Wyoming coal regulatory program has an approved alternative bonding system, differing from Federal and other State coal regulatory programs. Wyoming's bonding system consists of an "area bond" and an "incremental bond." The area bond moves each year with the pit progression, which is adjusted through the submission and review of the permit annual report. The incremental bond covers the entire permit area.

There were no bond forfeitures during the past three years. There have been only two bond forfeitures since the approval of the Wyoming program in 1981. Those two bond forfeitures were for two underground mines. None of the large surface coal mines have experienced any bond forfeitures.

C. Reclamation Success and Program Performance

OSM evaluates and reports annually on the effectiveness of State programs in ensuring successful reclamation on lands affected by surface coal mining operations. Success is determined based on the number of acres that meet the bond release standards and have been released by the State. In addition, Field Offices conduct specific evaluations to evaluate the State's performance.

Using the number of acres released from bonds as the criteria, the Wyoming program has not achieved a large amount of reclamation success. However, as described above, bond release may not accurately reflect the performance of the program. Tables 5 and 6 summarize reclamation activity within the State.

Information was collected to measure program performance in the following areas four performance areas.

1. Reclamation Success As Measured By Bond Release

Backfilling and grading achievements are measured by the acres of phase I bond release as required by OSM Directive REG-8, p.I-9. This is depicted in Chart 1. Only about 33 percent of the lands that have been backfilled and graded to the approved postmine topography/approximate original contour and topsoiled have received Phase I bond release.

The proper placement of soil resources and vegetation stability are measured by the acres released under Phase I and II release (REG-8, p I-10). About 36 percent of the lands have been topsoiled and received Phase I bond release. While about 4 percent of the lands have been revegetated and received Phase II bond release.

The success of postmining land use, successful revegetation, and the restoration of surface and ground water quality and quantity are measured by the acres of Phase III bond release (REG-8, pp. I-11-12). Only about 11 percent of the lands have been successful revegetated for at least 10 years and received Phase III final bond release.

Chart 1. Bond Release –as a Measurement of Reclamation Success

Measurement of Reclamation Success	Acres available for bond release	Acres of Area Bonds Release and %	Acres of Bond Released		
			Phase I / %	Phase II & %	Phase III & %
Backfill & Grade	40,826	13,267 / 32.5%	NA	NA	NA
Soil Replacement	36,966		13,267/ 35.9%	NA	NA
Revegetation	36,966			1,282 / 3.5%	NA
Achieve Postmining Use, Hydrologic Reclamation, and Timeliness of Reclamation	8,086				876 / 10.8%

As mentioned previously, the measure of reclamation success solely by bond release does not accurately reflect the total effectiveness or success of the coal regulatory program. CFO believes that monitoring the progress of on-going reclamation in relation to the mining progression is a better measure of the effectiveness and success of a reclamation program.

CFO will continue reviewing the permit annual reports during the next evaluation period to determine the acres that have been rough backfilled and those area bonds have progressed onto newly disturbed areas. Such areas are considered eligible for Phase I bond releases after final grading is completed under the Wyoming program. The State and CFO encourage companies to apply for bond releases. However, economic pressures from the increase cost of bonds maybe the only way to achieve a higher number of bond releases.

2. Program Performance

a. Contemporaneous Reclamation

While contemporaneous reclamation is not reflected by bond releases as depicted in Table 5, it is the intent of SMCRA to assure that adequate procedures are undertaken to reclaim surface areas as contemporaneously as possible on the ground. Table 6 provides an overall perspective of the relationship between disturbance and reclamation. Chart 2 and Graph 1 further depict this relationship, while Graph 2 illustrates the cumulative relationship between disturbance verse reclamation of lands.

The intent of contemporaneous reclamation is to provide a balance between disturbance and reclamation and an overall picture of the success of reclamation is keeping step with the mining progression in the State. Information provided to complete Table 5 and Table 6 in the annual reports summarizes mining and reclamation activity and should be considered a source for this measurement.

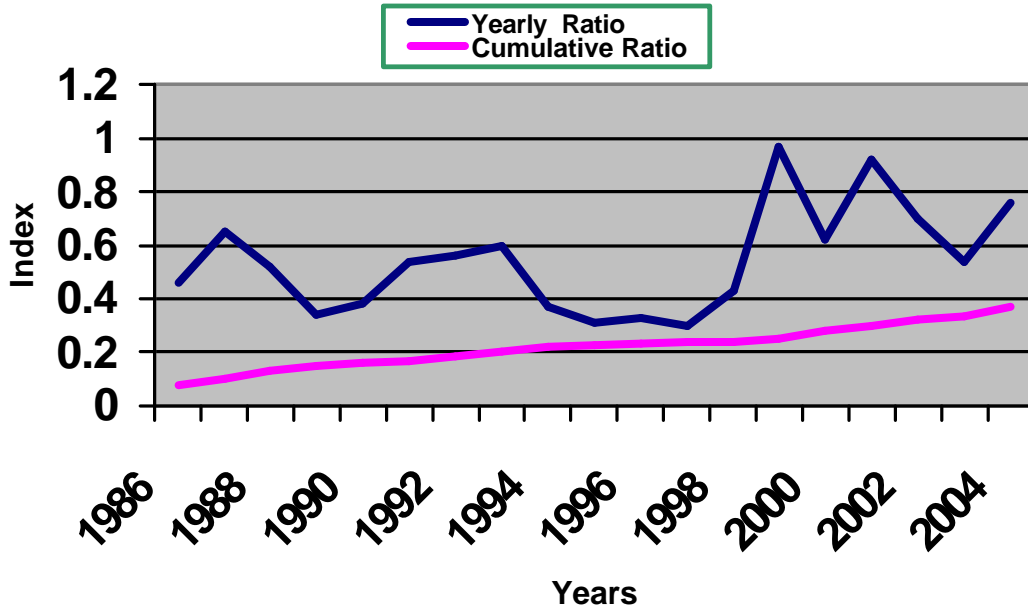
The following charts and graphs are used to highlight the CFO's concern that the rate at which lands are being reclaimed in Wyoming compared to the rate of disturbance. Currently the ratio is about 3 to 1 and has been improving over the years. Ideally the ratio should be 1 to 1 as mentioned below. The gap between the acres disturbed verses reclaimed is widening, thereby creating a backlog of lands available for reclamation, contributing to a delay in contemporaneous reclamation and subsequent bond release.

Chart 2. WYOMING STATEWIDE RECLAMATION SUMMARY

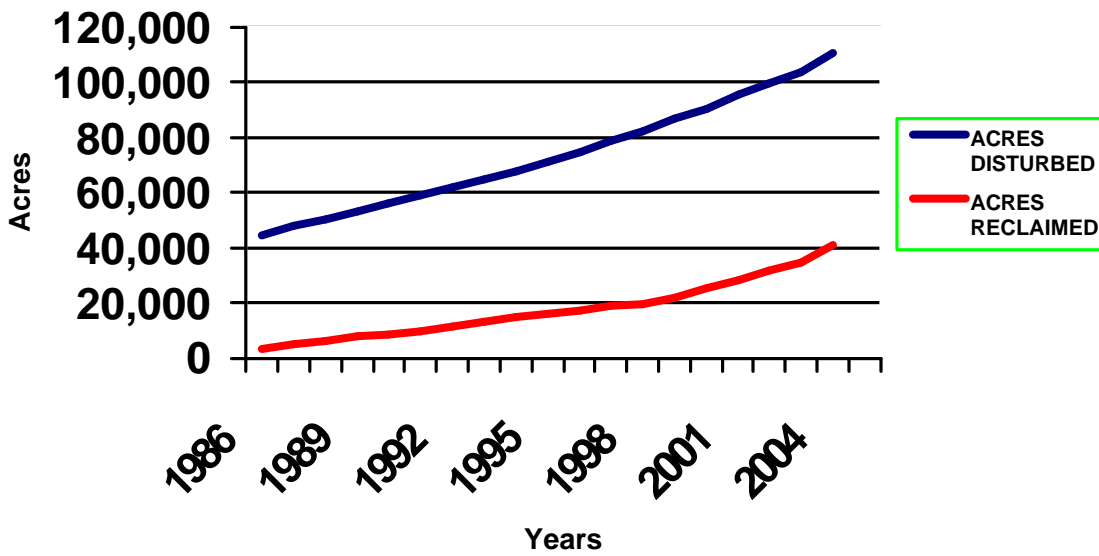
<u>YEAR</u>	ACRES DISTURBED	Cumulative Acres Dist.	ACRES RECLAIMED	Cumulative Acres Recl.	RATIO OF RECLAM VS DISTURB	Cumulative RATIO OF RECLAM VS DISTURB
1986	3152	44,742	1456	3,335	.46	.075
1987	2521	47,894	1630	4,791	.65	.100
1988	2610	50,415	1355	6,421	.52	.127
1989	2967	53,025	994	7,776	.34	.147
1990	2833	55,992	1068	8,770	.38	.157
1991	2807	58,825	1517	9,838	.54	.167
1992	2919	61,632	1641	11,355	.56	.184
1993	3173	64,551	1888	12,996	.60	.201
1994	3327	67,724	1219	14,884	.37	.220
1995	3873	71,051	1234	16,103	.31	.227
1996	3954	74,924	1311	17,337	.33	.231
1997	3613	78,878	1098	18,648	.30	.236
1998	4303	82491	1973	19,746	.43	.239
1999	3868	86,794	3541	21,719	.97	.250
2000	5185	90,662	3174	25,260	.62	.279
2001	3564	95,847	3295	28,434	.92	.297
2002	4067	99,411	2857	31,729	.70	.319
2003	5459	103,478	2924	34,653	.54	.335
2004	5062	110,578	3843	40,826	.76	.392

Total acres disturbed equaled 110,578 and total acres reclaimed equaled 40,826 for a Ratio of .392 on a statewide basis.

Graph 1. Reclamation Index

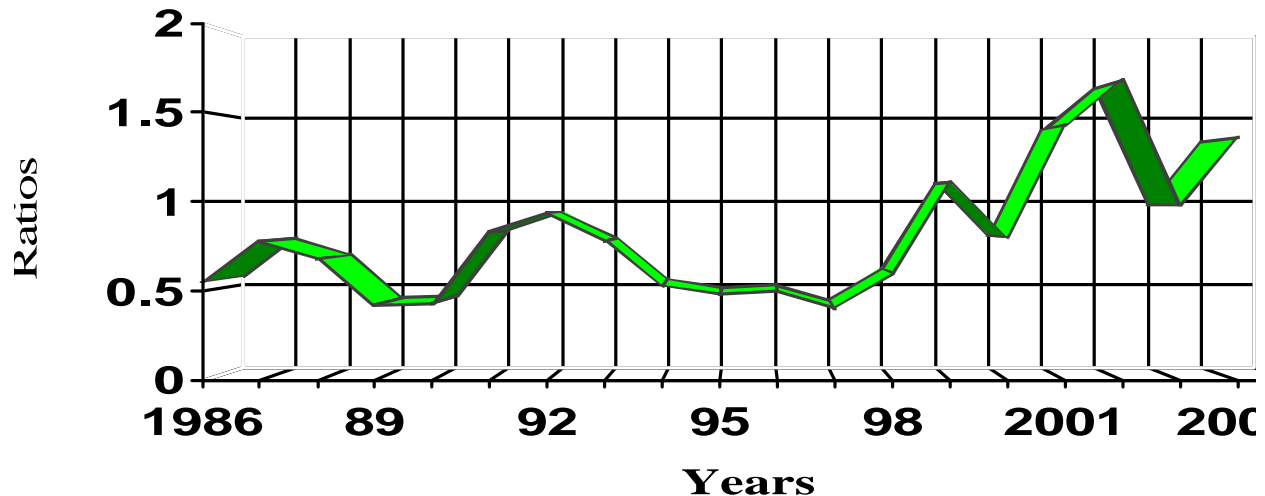


Graph 2. Cumulative Disturbed vs Cumulative Reclaimed Acreage



Approximately 345,570 acres are currently bonded (Table 5). During the evaluation period, an additional 3,843 acres were permanently reclaimed with a permanent seed mixture. Approximately, 35,000 acres are ready for Phase I and Phase II bond release. Table 6 depicts data collect from 1986 to 2004, giving a long term view of the mining and reclamation activities in Wyoming.

Graph 3. Reclamtion Ratios



Graph 3. is similar to Graph 1., except this graph acknowledges that some facilities are necessary to operate the mine can not be reclaimed until mining is completed. Graph 3. illustrates the ratio of the yearly permanent reclamation compared with the net disturbance found in Table 6. Net disturbance consists of areas available for reclamation that are not being used for long-term approved disturbances such as: stockpiles, active pits, access roads, haul roads, railroad right-of-ways, coal preparation and loading sites, offices, shops, sediment ponds, and other approved uses. The 2004 ratio shows a 31 percent increase of reclamation, as well as, a 6.8 percent increase of newly disturbed lands. Approximately 49 percent of the newly disturbed lands were for long-term facilities. The ratio of reclamation to net disturbance for EY 2004 is 1.36. A ratio of 1.0 indicates that the reclamation and net disturbance are equal. A ratio higher than 1.0 indicates that the reclamation is greater than the net disturbance, while a ratio less than 1.0 indicates the opposite

b. Inspection and Enforcement

The LQD continues to conduct frequent and thorough inspections. LQD conducted 142 complete inspections and 251 partial inspections during the evaluation period. There are 30 of the 32 coal mines with active NPDES permits. The Wyoming Water Quality Division (WQD) conducted 94 inspections during the first three quarters of

the evaluation period. As per an agreement between WQD and LQD, the LQD inspectors completed the WQD inspections for the fourth quarter, completing the required water quality inspections.

LQD performed more than the minimum required inspections for the Wyoming Program. All LQD performance standards were reviewed and documented during complete inspections and the reports contain a discussion of the current mine status.

The Casper Field Office conducted a total of twenty-one inspections, all of which were partial / focused inspections. CFO did not conduct any complete inspection during this evaluation period.

LQD maintains an inspectable units list and an inspection database sufficient to meet its program requirements. LQD has made this database available to the CFO.

LQD issued 7 Notices of Violation and no Imminent Harm or Failure to Abate Cessation Orders during this nine month evaluation period. No pattern of violation exists or show cause hearings / alternative enforcement action (bond forfeiture) were initiate during this evaluation period.

The CFO issued two (2) Ten-Day-Notices (TDNs) during this review period. One TDNs was resolved during the evaluation period and the other maybe be reopened.

VI. OSM Assistance

A. Training

OSM offers training courses through the National Technical Training Program (NTTP) to State regulatory authority employees at no expense to the State or the attendee (other than salary and benefits). OSM's technical training program provided a wide range of courses (some listed below). Nine Wyoming LQD employees received training from OSM's technical training program at a cost of \$10,460 during EY2004.

The nine LQD employees participated in the following training courses:

Wetlands -	1 staff
Bonding: Cost Estimation -	2 staff
Evidence Preparation and Testimony -	1 staff
Historic / Archeological -	3 staff
NEPA Procedures -	1 staff
Blasting	1 staff

B. Office of Technology Transfer (OTT)

Wyoming Department of Environmental Quality Land Quality Division continues to participate in the technological advances by updating its hydrology database,

developing a GIS for bond release, and exchanging electronic information for permitting activities. Wyoming staff made significant contributions to the new technologies workshops conducted by OTT this year.

Wyoming Staff made presentations at two OTT/WRTT New Technologies Implementation Workshops, and nine staff members (Georgia Cash-Hoenig, Rick Chancellor, Roberta Hoy, Mark Taylor, Christine Mielnicki, Mark Rogaczewski, John Erickson, Marcello Calle, and Carol Bilbrough) attended, and participated in discussions at the three workshops – for a total of fifteen attendees.

At the Denver New Technologies Implementation Workshop Mark Rogaczewski and Christine Mielnicki presented the status and accomplishments of the *WY Bond Release GIS*.

At the third New Technologies Implementation Workshop in Salt Lake City, June 2004, Mark Taylor presented an update on *Wyoming Pilot GIS for Bond Release*

Two staff members attended a day-long workshop on *Introducing GIS, Digital Imagery, and Volumetrics, and Advanced Modeling, Emphasizing Digital Imagery in GIS Applications*

To support the new technologies implementation, this year OTT purchased the following for Wyoming DEQ/LQD:

Geo XM mobile GPS receiver	\$2,515
Terrasync Pro Software	\$1,786
InFocus Projectors (Lander/Sheridan)	\$3,838

Technical assistance to Wyoming in the area of bonding included providing:

Information on bond riders for permit renewals

Information on evaluating the quality of applicant's current assets as shown on its financial statements as it relates to self-bonding applications

Background on federal and state self-bonding regulations with respect to adding self-bond amounts to applicant's liabilities before calculating the financial tests

Information on five different changes to the Treasury Circular 570

OSM's Technical Librarian filled 2 reference requests, and provided 24 journal articles to Wyoming Staff. In addition Wyoming received 7 technical publications: The Seed and Soil Dynamics in Shrubland Ecosystem; Geologic Studies of Mercury by the USGS; Strontium Isotopic Characterization of Coal and Sandstone Aquifers, Powder River Basin; Evaluation and Comparison of Hypothesis Testing Techniques

for Bond Release Applications; Native Plants Materials Directory; Proceedings of Market-Based Approaches to Mined Land Reclamation and Reforestation: A Technical Interactive Forum; Effect of Mechanical and Biological Enhancements on Erosion at High Elevation Disturbed Lands; and 10 CDs, that were distributed to WRTT.

C. Computer Support (TIPS)

TIPS personnel gave a brief presentation regarding TIPS' intent to provide scientific and engineering software directly to desktop workstations in TIPS customer locations. ArcInfo and AutoCAD software were delivered to the State with instructions for desktop and server installations during EY 2003. As a follow-up during EY 2004, TIPS held courses in ArcGIS Spatial Analyst, SEDCAD, and Introduction to ArcGIS. There were 16 LQD participants in the three courses at a cost of \$6,467 to OSM.

KeyServer will be used to distribute software licensing to most TIPS software applications. TIPS advised each of state that the remaining TIPS software will be delivered by the end of the calendar year.

D. Cultural Resources

The CFO continues to coordinate the National Historic Preservation Act, Section 106 cultural resource compliance for the State of Wyoming. The CFO cultural resource coordinator works closely with the OSM Archaeologist in WRCC, Wyoming Department of Environmental Quality (DEQ), Bureau of Land Management (BLM), Wyoming State Historic Preservation Office (SHPO), the Advisory Council on Historic Preservation (ACHP), U. S. Forest Service (USFS) and the affected mining companies to process cultural resource clearances on new mining lands and previously permitted areas that have not been surveyed for cultural resources. This detailed involvement is necessary because the Wyoming DEQ does not have a qualified archaeologist on staff and therefore, the SHPO will not accept cultural resource work from them. The SHPO has taken the position that, by law, the Section 106 process is the responsibility of the lead Federal agency and that requires that OSM be responsible for this work on any mines under permit. Prior to OSM involvement with any parcel of land, the land managing agency (BLM or USFS) would be the lead Federal agency and would initiate the Section 106 process. The DEQ has indicated that they have no plans to place an archaeologist on staff since all Section 106 clearances are covered by Federal agencies. During this reporting period, action was taken on 6 projects in Wyoming, and one programmatic Agreement.

E. Revegetation Success Standards

During the 2004 Evaluation Year an OSM representative met several times with Wyoming staff as part of ongoing assistance in development of technical vegetation success standards. The OSM representative was also involved in discussions on the development of criteria for evaluating vegetative diversity and the selection and description of vegetation sampling techniques. Wyoming's goal is to revise and

update its revegetation regulations to include appropriate success standards and statistically valid sampling techniques. As part of this assistance the OSM representative attended several meetings with Wyoming staff, including personnel from the three districts within the State, and representatives of the Wyoming Mining Association. OSM continues to provide technical assistance in this area at the request of the State.

VII. General Oversight Topic Reviews

A. Program Maintenance (Amendments)

Wyoming's Coal Regulatory Program contains unresolved program issues identified in OSM's letters issued pursuant to 30 CFR 732.17 and subsequent required program amendments and disapprovals identified under 30 CFR 950. Wyoming and OSM has identified all of the program deficiencies and established a schedule for submitting program amendments to OSM.

Wyoming has not been successful in meeting its schedule for rule changes. There have been bureaucratic and political barriers within the State's rulemaking process hindering progress. Many amendments are heard before the Land Quality Advisory Board and Environmental Quality Council several times without passing through to final rulemaking and submission to OSM for review and final decision.

CFO and LQD have thoroughly reviewed the outstanding program deficiencies. CFO has concluded, on the basis of its review and field monitoring, that there were no immediate potential environmental problems or threats attributed to the program deficiencies.

Of the original 126 deficient rules identified in 1994; 83 have been resolved within seven amendment packages. Thirty-six deficiencies remain to be addressed. Eighteen of these are Ownership & Control rules. WRCC has suggested that LQD delay working on these rules to the last due to OSM's current rule litigation.

There are six program amendments remaining. One amendment package has been submitted to OSM for review, two other amendment is in the State's rulemaking process and the remaining 3 packages have not been started.. The following is the current schedule for submitting amendments to OSM as proposed by LQD and approved by CFO:

Hydrology	Approved Nov. 2002
Permit Processing and Administration	Approved June 2002
Roads	Approved Nov. 2003
Coal Exploration (1R) (7 issues)	Submitted June 2004
Bond Release (1-U) (3 issues)	June 2006
Vegetation (1-S) (5 issues)	Sept. 2006
Non Coal Waste (1-B) (2 issues)	No Date Projected

Valid Existing Rights (1 issue)
Ownership and Control (18 issues)

Postponed at OSM request
Postponed at OSM request

The Wyoming Department of Environmental Quality, Land Quality Division (LQD) has addressed the majority of the outstanding program deficiencies.

As of October 2002, LQD lost its principle rulemaking specialist. LQD has hired a replacement, but in less than a year lost that individual. The duties for preparing rulemaking packages has been divided among the LQD staff in an effort to keep making progress.

The Vegetation amendment package (1-S) had been prepared for the Advisory Board meeting. At the board meeting, the Wyoming Mining Association submitted their version of a vegetation amendment package (1-S). Land Quality Advisory Board directed the LQD to review the WMA's amendment proposal and compare it with Amendment package 1-S and try to resolve differences with the WMA. So far this process has taken more than a year with very little progress despite the numerous meetings. The non-coal waste amendment (1-B) was rejected by the EQC and returned to the Advisory Board for a rewrite. No date has been projected for submitting to OSM. It needs to be re-addressed by the board and EQC again.

The Coal Exploration amendment package (1-R) finally passed through the EQC hearing process and has been submitted to OSM. The Administrative Procedures for Bond release amendment (1-P) was also passed by the board and will follow package 1-R to the EQC.

B. Financial Administration

CFO conducted financial oversight during the evaluation period. CFO visited DEQ offices in Cheyenne, Wyoming and reviewed financial information. Specifically, drawdowns, payroll approval, travel, property, Federal lands grant distributions, A-133 Audits, program income, timeliness and accuracy of grant applications and reports, were reviewed.

A drawdown analysis was conducted for the existing Administration and Enforcement (A&E) grant as well as the previous grant. Five draws from the previous and current grant were sampled. Wyoming drew the correct amounts for each draw and the draws followed appropriate expenditures. All draws were reimbursable. No problems were found.

Title V accounting records were reviewed to ensure that the State is following their policies and procedures for payroll. Both the supervisors and the employees are required to sign monthly timesheets. Signatures were adequate, and records are being kept not only of weekly hour worked but of sick and annual leave taken. No problems were found.

Policies and procedure allowances for air travel, per diem, lodging and mileage for personal vehicles were reviewed. Seven individual's travel for the past year who worked was samples. Over 30 vouchers were scrutinized. No problems were found. Supervisors are approving the vouchers, employees are also signing them as required by Wyoming policies and procedures. Per diem and lodging allowance were appropriate. No problems were found.

Wyoming is up to date with their travel property reports. Based on the current FAM property reporting requirements, the State is reporting property correctly though the number of properties required to be reporting is dwindling. No problems were found. Each year the Wyoming DEQ reports the respective number of acres that are Federal and non-Federal under permit in their grant application. This is the criterion for calculating what share of the grant are Federal lands and what share is not. Acreage reporting of Federal lands permitted and acres permitted under lands non-Federal as submitted by permitted operations were reviewed to ensure they agreed with what is in the grant. The reporting was accurate and no problems were found.

There are no outstanding findings for A-133 audits pertaining to Title V program, nor were there any that had to be resolved during the reporting period. A-133 audits are up to date and the planning of future audits is up to date.

There was no program income reported when this oversight was conducted.

DEQ is timely in their reporting required cost and progress reports and they are timely with their grant applications for Title V.

Appendix A:
Tabular Summary of Core Data to Characterize the
Program

Appendix B:
State Comments on the Report

State Comments on the Report

From: "Rick Chancellor" <RCHANC@state.wy.us>
To: "Mark Humphrey" <mhumphre@osmre.gov>
Date: 10/1/2004 9:13:28 AM
Subject: Annual report

Mark,

I have completed a review of the draft Annual Evaluation Summary Report and found no major concerns. There are several editorial comments that are listed below:

1. Page 4, IV.B. Fugitive Dust. In the sixth line of the paragraph the word resolve should be resolved.
2. Page 4, IV.C. Innovations. The first sentence should also mention the North Antelope/Rochelle Mine.
3. Page 15, VII.A. Program Maintenance The forth paragraph states that four program amendments have been approved since 1995 (page 3 also states that four amendments have been submitted and approved since 1995). The first paragraph on page 16 states that seven program amendments have been submitted approved since 1995.
4. Page 17, VII.B. Financial Administration The second sentence of the second paragraph seems awkward. Perhaps it should read "were sampled."
5. Page 17, VII.B. Financial Administration The word "travel" in the first sentence seems out of place and perhaps should be deleted.
6. Page 17, VII.B. Financial Administration The word "not" in the last sentence should be "no."

Thank you for the opportunity to comment on the report.

Rick Chancellor

Appendix C:

CFO Response to State Comments

Appendix C: CFO Response to State Comments

LQD COMMENT:

1. Page 4, IV.B. Fugitive Dust. In the sixth line of the paragraph the word resolve should be resolved.

CFO RESPONSE:

This editorial change was made.

LQD COMMENT:

2. Page 4, IV.C. Innovations. The first sentence should also mention the North Antelope/Rochelle Mine.

CFO RESPONSE:

This editorial change was made.

LQD COMMENT:

3. Page 15, VII.A. Program Maintenance The forth paragraph states that four program amendments have been approved since 1995 (page 3 also states that four amendments have been submitted and approved since 1995). The first paragraph on page 16 states that seven program amendments have been submitted approved since 1995.

CFO RESPONSE:

This section was revised to make the text less confusing and more concise.

LQD COMMENT

4. Page 17, VII.B. Financial Administration The second sentence of the second paragraph seems awkward. Perhaps it should read "were sampled."

CFO RESPONSE:

This editorial change was made.

LQD COMMENT:

5. Page 17, VII.B. Financial Administration The word "travel" in the first sentence seems out of place and perhaps should be deleted.

CFO RESPONSE:

The first sentence was revised to make the text less confusing and more concise.

LQD COMMEN:

6. Page 17, VII.B. Financial Administration The word "not" in the last sentence should be "no."

CFO RESPONSE

This editorial change was made.