

**Statement of
Gregory E. Conrad
Executive Director
Interstate Mining Compact Commission
“The Surface Mining Control and Reclamation Act of 1977: A 30th Anniversary Review”
Before the
House Natural Resources Committee
July 25, 2007**

Good morning Mr. Chairman and Members of the Committee. My name is Greg Conrad and I serve as Executive Director of the Interstate Mining Compact Commission. The Compact is comprised of 24 states throughout the country that together produce some 90% of our Nation’s coal, as well as important non-fuel minerals. The Compact’s purposes are to advance the protection and restoration of land, water and other resources affected by mining through the encouragement of programs in each of the member states that will achieve comparable results in protecting, conserving and improving the usefulness of natural resources and to assist in achieving and maintaining an efficient, productive and economically viable mining industry. Participation in the Compact is gained through the enactment of legislation by the member states authorizing their entry into the Compact and their respective Governors serve as Commissioners. We appreciate the opportunity to participate in this oversight hearing on “A 30th Anniversary Review of the Surface Mining Control and Reclamation Act of 1977”. I will present a general overview of the states’ experience with SMCRA’s implementation and will then turn to my colleagues from West Virginia and Wyoming to provide insights into the operation of state programs in two important coal mining regions of the country. Finally, John Husted of Ohio, who serves as President of the National Association of Abandoned Mine Land Programs, will share the state and tribal perspective on the AML program under SMCRA.

The Surface Mining Control and Reclamation Act is one of several laws passed in the environmental decade of the 1970s that provided for a unique blend of federal and state authority for implementation of its provisions. As one of the original framers of this landmark law, Mr. Chairman, you know that one of its key underpinnings was that the primary governmental responsibility for developing, authorizing, issuing and enforcing regulations for surface mining and reclamation operations subject to the Act should rest with the states, due to the diversity of terrain, climate, biologic, chemical and other physical conditions related to mining operations. We are here to report on our role and experience as primary regulatory authorities under SMCRA.

By almost all accounts, the implementation of SMCRA by the states has been a resounding success. The anticipated purposes of the Act have been or are being accomplished and the overall goal of establishing a nationwide program to protect society and the environment from the adverse effects of past and present surface coal mining operations has been achieved. Drainage and runoff controls are in place to ensure that downstream waters are not filled with sediment or otherwise polluted by mining activity. Blasting operations are controlled to prevent damage to nearby buildings and other property. Final grading and reshaping of mined lands are undertaken to ensure that they are stable and approximate their original contour. Topsoil is preserved and then replaced on mined lands to accomplish high levels of productivity. Mined

lands are reclaimed to a variety of beneficial uses within a few years after the completion of mining. Once reclaimed lands are fully bond released, they are returned to local landowners in equal or better condition than before mining began. All of these statutory requirements are being accomplished while maintaining a viable coal mining industry that is essential for meeting our Nation's energy needs. Examples of some of the excellent reclamation that is occurring under the Act can be seen in our two exhibits, which highlight various state, IMCC and OSM reclamation award winners.

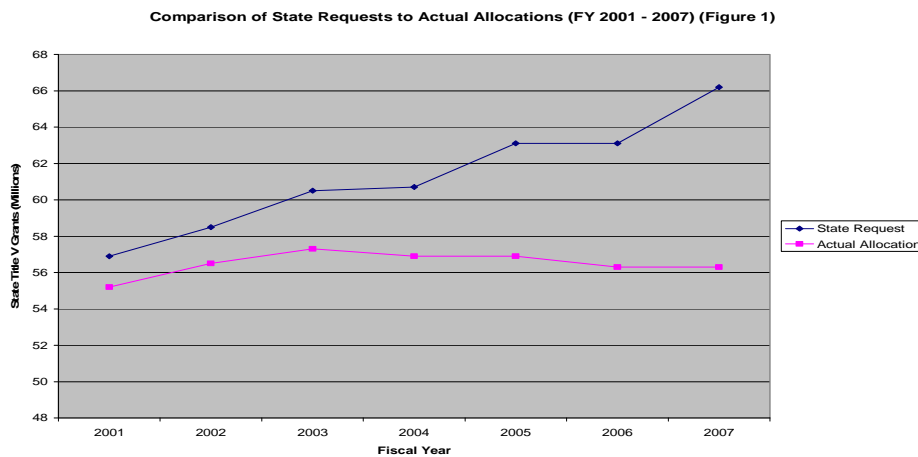
As we reflect back on the past 30 years since the enactment of the Surface Mining Control and Reclamation Act (SMCRA), much has changed and yet some things remain the same. In the early years, we were focused on the development of a comprehensive federal regulatory program that would serve as the baseline for SMCRA's implementation. Many of these initial rules faced legal challenges as being arbitrary, capricious or inconsistent with law and took many years to resolve. A few, like the definition of valid existing rights and the procedural rules concerning ownership and control that underpin the Applicant/Violator System, are still unsettled. However, the majority of the federal rules are in place and working effectively. This is not to say that we are out of the woods with respect to significant future rulemakings. Two examples of rules currently before the Office of Surface Mining, Reclamation and Enforcement (OSM) are stream buffer zones and mine placement of coal combustion by-products, both of which the agency will soon be proposing. However, in general, the regulatory program is more stable and certain than it was even 10 years ago, which benefits both coal operators and citizens.

One of the key components of SMCRA when first enacted was its reliance on a unique and challenging arrangement of state and federal authority to accomplish its intended purposes and objectives. Pursuant to the state primacy approach embodied in SMCRA, the states serve as the front-line authorities for implementation of the public protection and environmental conservation provisions of the Act, with a supporting oversight role accorded to OSM. It has taken a good portion of the past thirty years to sort out the components of these often competing roles, but the result has been a balance of authority that generally works.

During the past ten or so years, the working relationship between the states and OSM has been particularly productive and non-contentious. We have moved beyond the second-guessing of state decisions that predominated the early years of state program implementation and instead are engaged in more cooperative initiatives where OSM strives to support the states through technical advice and training and where the states and OSM work together to solve difficult policy and legal questions. OSM's oversight program is more focused on results, looking at on-the-ground reclamation success and off-site impacts, which better reflect the true measure of whether the purposes of SMCRA are being met. In fact, over the years, both OSM's oversight program, as well as several state performance-based regulatory programs, have received national recognition for their effectiveness and efficiency.

This is not to say that there are not several challenges ahead of us as we look to the future. Perhaps the most crucial at this juncture is adequate funding for state regulatory programs. Pursuant to section 705 of SMCRA, OSM is authorized to make annual grants to the

states of up to 50 percent of the total costs incurred by the states for the purposes of administering and enforcing their programs. This percentage is increased for those states that regulate on federal lands. As you know, Mr. Chairman, these grants are essential to the full and effective operation of state regulatory programs. For the past several fiscal years, the amount for state Title V grants has been flat-lined. (See figure 1) What this graph does not show is that these grants have been stagnant for over 12 years. The appropriation for state Title V grants in FY 1995 was \$50.5 million. Essentially, we have attempted to operate effective, high performance programs with a meager \$6 million increase spread over 12 years. By most standards, this is remarkable, and clearly a bargain for the federal government. Over this same period of time, coal production has risen substantially and OSM's own budget for federal program costs has increased by over \$25 million. Given the fact that it is the states that operate the programs that address the environmental impacts of coal mining operations, a similar increase would have been expected. But instead, state regulatory grants have remained flat-lined.



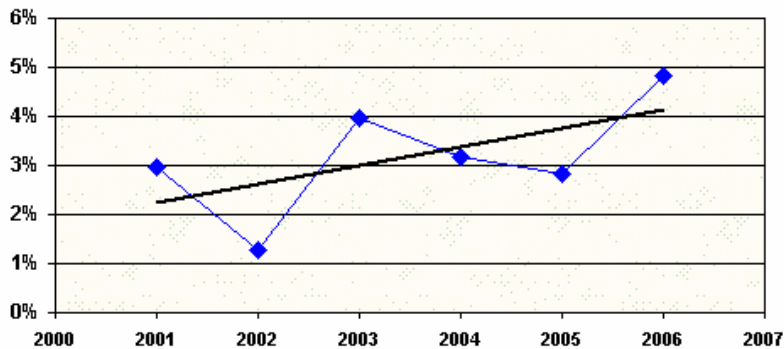
For Fiscal Year 2008, in an attempt to reverse this trend, OSM has proposed a modest increase for state Title V grants. However, it may be too little too late, especially for some states such as Virginia and Utah. In Virginia, for instance, coal production and operating costs have increased, while federal funding for state-based coal regulatory programs has consistently decreased. The rise in costs associated with wages, employee benefits, and transportation fuels have risen approximately 15% over the past four years. Due to the loss of federal funds, Virginia is unable to fill many staff postings, including that of the critical field inspector. Without a full staff of reclamation inspectors, Virginia may not meet federal inspection guidelines. Virginia is also unable to fill technical support staff positions. This will limit the assistance the Commonwealth can offer to coal companies and significantly delay the review and approval process for surface mining permits. Virginia's situation is symptomatic of what other states are facing – or will soon face – if the debilitating trend for Title V grant funding is not reversed.

It must be kept in mind that state coal regulatory program permitting and inspection workloads are in large part related to coal mine production. In general, as coal production increases, the need for additional permitting and operational inspections also increases. State programs must be adequately funded and staffed to insure that permitting and inspection duties

are both thorough and timely as states experience the reality of accelerating coal mine production and expansion activities. As program funding shortfalls continue, states risk the possibility of delayed production and negative impacts to the environment. The situation in Colorado exemplifies this reality. From 2002 to 2006, Colorado production increased approximately 10%. Permit revision activity increased nearly 50% during the same period. This reality has stressed existing program resources and caused the delay or elimination of lower priority program functions.

Just as with the federal government, state regulatory programs are personnel intensive, with salaries and benefits constituting upwards of 80 percent of total program costs. And, just like the federal government, state personnel costs are increasing. (See figure 2) States must have sufficient staff to complete permitting, inspection and enforcement actions needed to protect citizens of the coalfields. When funding falls below program needs, states may struggle to keep active sites free of offsite impacts, reclaim mined areas, and prevent injuries.

Coal Regulatory Program Personnel Cost Increases



Looking again at figure 1, another disturbing trend is evident. The gap between the states’ requests, which are based on anticipated expenditures, and what states are receiving in annual grants, is widening. The numbers in this chart are taken from OSM budget justification documents, OSM’s website, and estimates provided to OSM from the states. Please note that these numbers have not been adjusted for inflation – which means the situation is actually more bleak. There is no disagreement about the need demonstrated by the states. In fact, in OSM’s own budget justification document, OSM states that: “the states have the unique capabilities and knowledge to regulate the lands within their borders. Providing a 50 percent match of Federal funds to primacy States in the form of grants results is the highest benefit and the lowest cost to the Federal government. If a state were to relinquish primacy, OSM would have to hire sufficient numbers and types of Federal employees to implement the program. The cost to the Federal government would be significantly higher.” (Page 71 of OSM’s Budget Justification)

The enormity of this funding challenge will become increasingly clear as the federal government is faced with the dilemma of either securing the necessary funding for state programs or implementing those programs (or portions thereof) themselves – at significantly

higher costs. In Virginia alone, for instance, the cost of OSM running the program would likely amount to \$ 8 – 10 million based on what it currently costs OSM to run the comparable federal program in Tennessee. For perspective, in Fiscal Year 2007, Virginia has been offered \$3.175 million in federal funding to operate its program (although actual needs amount to \$3.6 million – an overall shortfall of nearly \$1 million when the state match is factored in). If this analysis was expanded to all of the 24 state programs, the overall savings to the federal government would be dramatic. In addition, as anticipated by SMCRA’s framers, the states are closer to the action, are able to account for local conditions and circumstances and can be more responsive.

In the end, the increasing gap between the states’ anticipated expenditures and actual Federal funding is compounding the problem caused by inflation and uncontrollable costs, undermines our efforts to realize needed program improvements and enhancements, and jeopardizes our efforts to minimize the impact of coal extraction operations on people and the environment. For all these reasons, we have urged Congress to increase funding for state Title V regulatory grants in OSM’s FY 2008 budget to \$67 million, as fully documented in the states’ estimates for actual program operating costs. A resolution adopted by IMCC at its recent annual meeting addressing this matter is attached to our testimony (Attachment No. 1). At this point, the House has approved an additional \$2 million over the Administration’s request of \$60.2 million and the Senate Appropriations Committee has approved a \$6 million increase over that request. This is very encouraging and we trust that in the end, Congress will approve the full \$66.2 million for state Title V grants.

It must be kept in mind that where there is inadequate funding to support state programs, some states will be faced with turning all or portions of their programs back to OSM (as in the case of Virginia) or, in other cases, will face potential lawsuits for failing to fulfill mandatory duties in an effective manner (as has occurred in Kentucky and West Virginia in the past). Of course, where a state does, in fact, turn all or part of its Title V program back to OSM (or if OSM forces this issue based on an OSM determination of ineffective state program implementation), the state would be ineligible for Title IV funds to reclaim abandoned mine lands. This would be the height of irony given the recent reauthorization and revitalization of the AML program.

Speaking of the Title IV AML program, the states were greatly encouraged by the passage of the 2006 Amendments to SMCRA, which culminated over 12 years of work by the states and others to reauthorize this vital program. The AML program has been one of the hallmarks of SMCRA and has accomplished much over the years, as you will hear from Mr. Husted. With the infusion of new life and funding, the program holds out great promise for the future. The states have been working closely with OSM to design rules that will appropriately implement the provisions of the 2006 amendments and allow the states to put money into projects that meet the purposes and objectives of the new law. Among the key issues we have addressed in our discussions with OSM are the following:

- Use of the grant mechanism to distribute payments from the U.S. Treasury
- Funding for minimum program states
- Use of unappropriated state share balances for noncoal reclamation and the acid mine drainage set aside

- The effective date of certain payments under the new law
- Adjustments to the current grants process

We look forward to pursuing these issues in greater detail with OSM over the coming months. Should the Committee desire a copy of our more detailed comments on the draft proposed rules, please let us know.

With regard to funding for state Title IV Abandoned Mine Land (AML) program grants, recent Congressional action to reauthorize Title IV of SMCRA has significantly changed the method by which state reclamation grants are funded. Beginning with FY 2008, state Title IV grants are to be funded primarily by permanent appropriations. The only programs that continue to be funded through discretionary appropriations are high-priority federal reclamation programs, state and federal emergency programs, and OSM operations. As a result, the states will receive mandatory funding in FY 2008 of \$288.4 million for AML reclamation work. OSM also proposes to continue its support of the Watershed Cooperative Agreement program in the amount of \$1.6 million, a program we strongly endorse.

Assuming that permanent appropriations for state AML grants do, in fact, become a reality (and we trust they will), there are three remaining discretionary funding priorities for the states: minimum program funding; federal emergency programs; and Clean Streams funding. With respect to minimum program states, under the new funding formula provided by OSM, all of the states and tribes will receive immediate funding increases except for minimum program states. Under OSM's interpretation of the 2006 Amendments, those programs remain stagnant for the next two fiscal years at \$1.5 million, a level of funding that greatly inhibits the ability of these states to accomplish much in the way of substantive AML work. Many of these states have pending high priority AML projects "on the shelf" that cost several million dollars. The challenge for these states is putting together enough moneys to address these larger projects given minimum funding. It is both unfair and inappropriate for these states to have to wait another two years to receive any funding increases when they are the states most in need of AML moneys. We have therefore urged Congress to fund these states at the statutorily authorized level of \$ 3million in FY 2008 so as to level the playing field and allow these states to get on with the critical AML projects that await funding.

We have also urged Congress to approve continued funding for emergency programs in those states that have not assumed these programs. Funding the OSM emergency program should be a top priority for OSM's discretionary spending. This funding has allowed OSM to address the unanticipated AML emergencies that inevitably occur each year in states without state-administered emergency programs. Without this funding, it will be up to the states to address the emergencies that occur. In states that have federally-operated emergency programs, the state AML programs are not structured or staffed to move quickly to address these dangers and safeguard the coalfield citizens whose lives and property are threatened by these unforeseen and often debilitating events. Finally, we have urged Congress to approve continued funding for the Clean Streams Initiative. OSM has chosen to eliminate funding for this worthwhile program in FY 2008. We believe this is a mistake. Significant environmental restoration of impacted streams and rivers has been accomplished pursuant to this program, to say nothing of the

goodwill that the program has engendered among local communities and watershed groups. For the small investment of money that is appropriated for this program each year (approximately \$ 3 million), the return is huge.

Future challenges for the AML program include the perpetual operation and maintenance costs associated with acid mine drainage treatment; assuring that maximum flexibility is provided to the states to determine their respective AML project priorities; and enhancing opportunities for economic development (including recreation and tourism) in depressed areas of the coalfields.

As mentioned earlier, one of OSM's primary missions under the Surface Mining Act is evaluating the states' administration of their programs, otherwise known as oversight. This process has undergone a significant metamorphosis, the result of which has been a more credible and useful program for informing Congress and others about the status of state program administration. The first attempt at designing a meaningful oversight program in the mid-1980's was merely an exercise in data gathering or output measurement. We were concerned then with numbers of inspections, numbers of permit reviews and numbers of enforcement actions. OSM also tended to look behind state permitting decisions to determine whether OSM would have handled them the same way the states did. This type of "second guessing" generated significant conflict and even resentment between the states and OSM. In addition, the numbers that were collected into oversight reports told us little or nothing about whether the objectives of SMCRA were being met (i.e. what was happening on the ground? how effectively were state programs actually protecting the environment? how well was the public being protected and how effectively were citizens being served? how well were we working together as state and federal governments in implementing the purposes of SMCRA?).

Following an effort by OSM and the states in the late 1980's to fashion a more effective state program evaluation process based on a goal-oriented or results-oriented oversight policy and another review of the process in the mid-1990's, a performance measurement approach was adopted, based in large part on the requirements of the Government Performance and Results Act (GPRA). The new outcome indicators now focus on the following: the percentage of coal mining sites free of off-site impacts; the percentage of mined acreage that is reclaimed (i.e. that meets the bond release requirements for the various phases of reclamation); and the number of federal, private and tribal land and surface water acres reclaimed or mitigated from the effects of natural resource degradation from past coal mining, including stream restoration, water quality improvement, and correction of conditions threatening public health or safety. These new measurements are intended to provide Congress and others with a better picture of how well SMCRA is working and how well the states are doing in protecting the public and the environment pursuant to their federally approved programs. Much of this can also be told in pictures of reclaimed mined areas like those shown in our exhibits, many of which reflect winners of IMCC's and OSM's national reclamation awards. Effective program implementation by the states and compliance by the coal industry are resulting in the reclamation and restoration of both active and abandoned sites that meet the objectives of SMCRA and benefit both people and the environment.

Over the past twenty years, state regulatory programs have improved to the point that implementation is highly successful. Due to this success, the overall programmatic emphasis under SMCRA has shifted from structural and administrative issues to specific technical issues that are encountered as reclamation technology and science are advanced. These issues tend to manifest themselves as environmental challenges unique to particular regions or states, many of which must be resolved during the permitting process. They may also arise as a result of state inspections at mining sites. In any event, due to constraints on existing state resources, states may be unable to undertake the type of technical analyses that attend these issues. This is where OSM serves a valuable support mechanism for the states (as anticipated by Section 705 of SMCRA) by providing technical assistance. In addition to meaningful and properly focused assistance, the states also look to OSM's Technical Innovation and Professional Services (TIPS) program. This has been one of OSM's most valuable and effective initiatives and serves as the cornerstone of the states' computer capability, particularly now that many states are utilizing electronic permitting. We trust that OSM and Congress will continue their support for TIPS and for the hardware and software upgrades that are required to assure the system's integrity and usefulness. TIPS training is also critical.

One of the key successes of SMCRA over the years has been its training program. Through a combination of both state and federal agency instructors, OSM's National Technical Training Program (NTTP) assures that newly hired state and federal employees, especially inspectors and permit writers, receive adequate and credible training both on basic elements of program implementation and on cutting-edge technical and policy subjects. The NTTP has also allowed more seasoned employees to fine tune their skills and update their knowledge on important topics. OSM's training program is especially important for smaller states that do not otherwise have access to such resources. In addition to NTTP classes, IMCC (working in cooperation with NTTP) has developed and facilitated a series of benchmarking workshops for both state and federal agency personnel that has allowed them to improve and enhance their respective regulatory programs and skills in such areas as blasting, subsidence, bonding, underground mine mapping, and permitting related to hydrologic balance. OSM has also sponsored several interactive forums on a variety of subjects of mutual interest to the states and we urge the agency to continue this practice, again with state input. All of these training components will become increasingly more critical as OSM and the states face a retiring workforce and the attendant succession planning that follows.

There have been other notable successes in SMCRA's implementation, in both the regulatory and policy areas. The states have worked cooperatively with OSM and others to address acid mine drainage issues through the Acid Drainage Technology Initiative, which focuses on prediction, prevention, avoidance, remediation and treatment. Again working cooperatively with OSM, the states have made significant strides in advancing reforestation efforts on reclaimed lands, particularly through the Appalachian Regional Reforestation Initiative. Through a partnership among the states, OSM and the Environmental Protection Agency (EPA), we have also seen major strides in the remaining arena, where thousands of acres of abandoned mine lands have been restored as part of active mining operations, thereby saving valuable AML Trust Fund dollars and returning the land to productive use. We have also been working with EPA and OSM to revisit the current effluent limitation for manganese so as to

reduce or prevent the adverse effects and potential hazards arising from some of the treatment technologies related to control of manganese.

In its 1990 monograph on “Environmental Regulation of Coal Mining: SMCRA’s Second Decade”, the Environmental Policy Institute identified and commented on several challenges facing the states and OSM, as follows:

The issues facing regulators today are more difficult than they were in 1977. Many of the easier and more blatant problems have been addressed [such as the two acre exemption] The regulatory issues today include the prevention of hydrologic damage, the control of subsidence and subsidence damage, the establishment of adequate reclamation bond amounts, the use of permit-based enforcement, and the improvement of federal oversight. Also of concern is the massive shortfall in the federal fund meant to reclaim areas abandoned prior to 1977 without reclamation. [Page3]

Throughout SMCRA’s third decade, many of these issues have been addressed and resolved. Congress has addressed the shortfall of moneys in the AML Trust Fund with the 2006 Amendments to SMCRA and OSM and the states are well on their way to implementing those adjustments and putting more money on the ground to restore AML sites. Federal oversight (and the attendant state/federal relationship under SMCRA) has advanced by significant degrees and is no longer the flashpoint that it once was. Through advances in electronic permitting and the use of tools available through OSM’s TIPS program, state permitting actions are timely, comprehensive and accurate, thereby insuring more effective compliance with the law.

That being said, given the nature and scope of today’s mining and reclamation operations and attendant environmental impacts, we continue to face challenges as regulatory authorities under SMCRA. A few examples follow:

- Bonding – one of the larger challenges concerning the bonding provisions of SMCRA is with regard to post closure issues. While SMCRA originally envisioned the bond as a guarantee of performance during mining, it did not anticipate the challenges associated with postmining concerns such as long-term treatment associated with acid mine drainage or long-term impacts from subsidence. For instance, OSM’s current rules on bonding require that the bond amount be adjusted for potential subsidence damage repairs. However, nothing is said about how the bond release procedure will apply in these situations. The result is that surety companies are reluctant to write bonds for reclamation because of the long term nature and unknown extent of the liability. The states have been working with OSM to address this matter through the use of other financial assurance mechanisms, such as trust funds. There are also issues associated with bond release in general. Given that the procedures attending release are so cumbersome and expensive, coal operators simply choose not to apply for them. This further impacts the availability of bond capacity in the market and results in unnecessary expenses for states related to continued inspection and enforcement on these essentially completed reclamation sites.

- Prime farmland – the requirements related to proof of productivity (five year minimum) prior to termination of jurisdiction and before the land can be returned to the owner are cumbersome. The mid-continent states are currently undertaking research through a major Midwestern agronomy/soil science university to determine proper testing techniques to ensure soil capabilities are present, in the hope that an alternative method for demonstrating productivity can be attained, thus returning land much sooner back to the owner of record.
- AVS – over the past twenty years, the states have worked diligently with OSM to develop the Applicant/Violator System (AVS), which assists us in implementing section 510(c) of SMCRA, particularly the issuance of permits. Early in the development of AVS, the states focused on designing a system that would allow them to identify and block violators and other scofflaws without bogging down the database with useless or unproductive information. While we have made progress in this regard, we continue to examine ways to improve and enhance overall system effectiveness. For example, a critical aspect of AVS is the rules that define ownership and control; permit and application information requirements; and the transfer, assignment or sale of permit rights. These rules have been under a constant state of flux since their original promulgation in 1988 and a recent OSM rulemaking attempts to bring closure to several key issues that remain unresolved or problematic.
- Underground mine mapping – another continuing challenge that we face concerns accurate and readily available underground mine maps, which are essential for protecting the public, the environment and infrastructure from the threats posed by unknown underground mines. Events such as the Quecreek incident in Pennsylvania and the Martin County Coal Company impoundment failure in Kentucky were high profile demonstrations of the kinds of incidents that can occur when mine maps are inaccurate or unavailable. IMCC has sponsored a series of national and regional benchmarking workshops that have focused on the collection, handling, scanning, georeferencing and validation of mine maps. While the expertise and technology is available to tackle this issue and accomplish these tasks, our biggest challenge is the lack of funding for personnel, hardware, software upgrades and database development to move the initiative forward.

In each of these instances, and in others such as subsidence control, blasting and hydrologic protection, the states are actively engaged in seeking technical solutions, as well as regulatory program enhancements, that will fully and adequately address concerns associated with these issues. As an example, over the past several years, IMCC has sponsored benchmarking workshops on subsidence impacts, blasting, financial assurance, electronic permitting and hydrologic balance, all of which have provided state and federal regulators with an opportunity to examine these issues in detail with an eye toward regulatory program improvements. IMCC is currently preparing for its next workshop on surface and ground water database development and use as part of the permitting process. The overall goal is to continually assess and enhance our performance as regulatory authorities in an effort to achieve ever higher levels of program effectiveness.

Much progress has been made over the past 30 years to accomplish the purposes and objectives of SMCRA. From our perspective, the basic organization of OSM is working well. At this point of SMCRA's implementation, neither the states nor OSM are dealing with the same types of issues or problems that attended the early years of program formation and administration. We have moved away from questions of adequate state program components and state implementation techniques to more substantive issues associated with technical, on-the-ground problems or with thorny legal and policy questions associated with interpretation of our programs. We therefore believe that it is most relevant for OSM to focus its energies and resources on assisting and supporting the states through adequate funding for state grants, sound technical and legal assistance, and opportunities for the states to actively participate in the agency's excellent training program. The overall result will be less federal intrusion in the states' administration of their programs, a concomitant enhancement of the federal/state partnership, and better on-the-ground performance by the regulated industry.

We appreciate the opportunity to present this testimony today and welcome the opportunity to work with your Committee, Mr. Chairman, to insure the effective implementation of SMCRA in the 21st century.

Resolution

Interstate Mining Compact Commission

BE IT KNOWN THAT:

WHEREAS, the Surface Mining Control and Reclamation Act (SMCRA) provides for the assumption of authority by state governments to regulate surface coal mining and reclamation operations within their borders following approval by the federal Office of Surface Mining (OSM) of state programs; and

WHEREAS, section 705 of SMCRA requires the federal government to provide annual grants up to 50 percent for costs incurred by the states for the purpose of administering and enforcing their approved regulatory programs; and

WHEREAS, over the past 25 years the states have been led to believe, based on actual practice and OSM policy, that the federal government would base annual grants on the states' estimated costs for implementing their regulatory programs, pursuant to the principles of primacy and partnership embedded in SMCRA; and

WHEREAS, in recent years federal funding for state regulatory grants has stagnated, resulting in a \$10 million gap between the states' estimated program costs and actual grant funding; and

WHEREAS, this debilitating funding trend is severely impacting the states' ability to run efficient and effective regulatory programs that meet the purposes and objectives of SMCRA, with some states having to overmatch federal grants dollars and other states being forced to seriously consider turning all or portions of their programs back to the federal government; and

WHEREAS, the costs for the federal government to operate regulatory programs in primacy states will, by OSM's own admission, be significantly higher than what the states currently spend; and

WHEREAS, there is strong, widespread support for increases in state regulatory grants from both the regulated industry and citizen groups so as to preserve the quality and integrity of state programs;

NOW THEREFORE BE IT RESOLVED:

That the Interstate Mining Compact Commission (IMCC) strongly urges Congress, the Office of Management and Budget, the Department of the Interior and OSM to shore up and support state regulatory programs through full funding of state grants so that states can effectively meet the objectives and mandates of SMCRA; and

BE IT FURTHER RESOLVED:

That IMCC specifically requests that funding for state regulatory grants in OSM's proposed FY 2008 budget be increased by \$ 7 million for a total of \$67 million.

Issued this 2nd day of May, 2007

ATTEST:

Executive Director

Figure No. 1

Comparison of State Requests to Actual Allocations (FY 2001 - 2007) (Figure 1)

