

**OFFICE OF SURFACE MINING
RECLAMATION AND ENFORCEMENT**

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

ALASKA

**EVALUATION YEAR 2007
JULY 1, 2006 to JUNE 30, 2007**

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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 Alaska Program and the effectiveness of the Alaska Program in meeting the applicable purposes of SMCRA as specified in Section 102. This report covers the period of July 1, 2006 to June 30, 2007. Detailed background information and comprehensive reports from the program elements evaluated during the period are available for review and copying at the Olympia, Washington OSM Office.

The following acronyms are used in the report:

AML	Abandoned Mine Lands
ASCMCRA	Alaska Surface Coal Mining Control and Reclamation Act
ASRC	Arctic Slope Regional Corporation
BHP	BHP Billiton
COE	U.S. Army Corps of Engineers
DMLW	Division of Mining, Land and Water
DNR	Alaska Department of Natural Resources
EPA	U.S. Environmental Protection Agency
FWS	U.S. Fish and Wildlife Service
GRP	Gold Run Pass Mine
GVEA	Golden Valley Electric Association
NPDES	National Pollutant Discharge Elimination System
NOV	Notice of Violation
OSM	Office of Surface Mining
PF	Poker Flats Mine
SEIS	Supplemental Environmental Impact Statement

SMCRA	Surface Mining Control and Reclamation Act of 1977
TBR	Two Bull Ridge Mine
TIPS	Technical Innovation and Professional Services
UCM	Usibelli Coal Mine Inc.
WR	Western Region

II. Overview of the Alaska Coal Mining Industry

Alaska is home to enormous coal reserves, estimated to be approximately 170 billion tons. Currently, Healy, Alaska is the only area where active coal mining is taking place. Historically, Usibelli Coal Mine Inc. (UCM) has employed upwards of 125 to 150 employees at its active mines. Even though the Healy area economy is becoming more diversified, primarily due to increased tourism and the spin-off benefits of tourism, the area relies heavily on the economic contributions made possible by the coal mining activity.

Usibelli Coal Mine Inc. is a family owned company and has very strong ties to the Healy area. The company was founded in 1943 and started coal mining operations shortly thereafter. Today, UCM is led by the grandson of the founder. It is the largest year-round employer in the area. The company not only currently employs approximately 110 people at the mine; it is a strong supporter of community activities. The Usibelli Foundation, incorporated in 1991, has contributed over \$100,000 annually to charitable organizations that support youth services, the arts, education, health and social services and civic activities in the Healy and Fairbanks area. Directly, UCM accounts for approximately an additional 80 jobs between the adjacent Golden Valley Electric Association (GVEA) mine mouth power plant, the Alaska Railroad Corporation and the Seward Coal Terminal located in Seward, Alaska. Indirectly, UCM mining activities benefit over 400 individual contractors/vendors located between Anchorage and Fairbanks with approximately 200 additional individuals being employed by the various power plants located throughout the interior of Alaska that burn coal mined from the Usibelli sites.

Since 1985, UCM has exported a sizable portion of its production to South Korea. However, in 2002, Indonesia outbid UCM for the Korean contract and the South Korean government terminated their coal contract with UCM. This resulted in decreased production during the 2003 evaluation cycle. The drop in production also resulted in a smaller workforce with employment decreasing to around 100 employees. Since 2004, world coal prices have rebounded and UCM has once again begun exporting coal to the Pacific Rim. Before the Korean contract was terminated, approximately 1.6 million tons of coal was mined annually in the Healy valley. With the renewed Korean contract in

place, UCM production peaked at 1.72 million tons in 2004. Recently, UCM negotiated a coal sales agreement with Chile for shipment of low sulphur coal to be used for power generation.

During this evaluation cycle, UCM produced 1,527,366 tons of coal. Approximately one-third, 543,852 tons, was transported by rail to the coal load-out facility located in Seward, Alaska for export. The remaining coal is transported to six power plants located within Alaska's interior. At the current rate of production, UCM has permits in place to mine for another 30 years. UCM is confident production will continue to rebound and is working with the GVEA power plant to explore various options as well as pursuing additional coal markets.

UCM is nearing completion of its coal mining activities at its Gold Run Pass Mine (GRP) and is actively reclaiming the appropriate areas. The Alaska Division of Mining, Land and Water (DMLW) released approximately 70 acres of Phase I and Phase II bond at GRP during the 2004 evaluation cycle. Also, very little coal remains to be mined at the Poker Flats Mine (PF) with UCM having backfilled and graded and planted over 625 acres. Coal production is increasing at the Two Bull Ridge Mine (TBR), which lies north of the Poker Flats Mine just across the Hoseana Creek. At full production, the Two Bull Ridge Mine is capable of producing approximately 2.1 million tons of coal annually.

On April 4, 2002, DMLW approved UCM's Rosalie Mine permit in the Healy Creek Valley, approximately 7 miles east of Healy, Alaska. This mine has an estimated 6.7 million tons of reserves and an estimated mine life of 13.5 years.

UCM has assumed, through permit transfer, the leasing and mining rights to two additional DMLW permits as well as an exploration permit. UCM has plans to possibly develop this area when the economics are right. The permits are located in an area known as Wishbone Hill, about 1 hour northeast of Anchorage, near the town of Sutton. Considering that transportation concerns and costs often make Alaska coal economically unfeasible, the location of UCM's Wishbone Hill permits could trigger increased mining activity in the State. UCM has not yet initiated any activity at the Wishbone Hill location.

UCM has produced a conceptual design of a mine mouth power plant near an area known as Jumbo Dome, located north of their current mining operations. The proposal is for a 200 megawatt power plant with an adjacent mine capable of producing 1.5 million tons of coal annually. During this evaluation cycle, DMLW issued a new permit to UCM for construction of a road to the Jumbo Dome area. DMLW staff anticipates UCM to submit a surface coal mining permit application during the next oversight cycle.

The owner of the Jonesville underground mine, Nerox Power Systems Inc. (Nerox), transferred its leases and mining rights to Sutton Partners LLC doing business as Knoll Acres Associates of Boise, Idaho. The principals of Knoll Acres worked with DMLW staff for the past several years to develop a permit application that met all applicable regulations and was able to be approved. The company completed some outstanding reclamation obligations it inherited from Nerox Power. The entire process has been

excruciatingly slow and frustrating. DMLW deemed the application both administratively and technically complete on January 14, 2005. An appeal to permit issuance was filed, with the hearing being held in July of 2005. After the hearing, the plaintiff dropped his appeal; however, the permit has yet to be issued pending receipt of the reclamation bond.

In spite of the progress made during past evaluation cycles, it appears that the current permittee has lost his enthusiasm for bringing the Jonesville Mine on-line. Unfortunately, the current situation at this site is no different than when the permit was controlled by the previous permittees ...inactivity.

PacRim Coal, the leaseholder of a 20,000 acre coal lease area in the Beluga Coal Field, located in Southcentral Alaska, has initiated the permitting process with DMLW and other appropriate state and Federal agencies. The project, known as the Chuitna Coal Project, has recently been the subject of several scoping meetings involving the regulatory community as well the public.

The applicant, PacRim LP, has been submitting to DMLW final draft packages of baseline studies conducted by various consultants. DMLW staff, along with other state and Federal permitting agencies have been reviewing the baseline data and providing feedback to the applicant. DMLW anticipates PacRim will be submitting a surface coal mining permit application to them during the fall of 2007.

It should be noted that on June 14, 2007, DMLW received a petition to designate all lands within the Chuitna River watershed as unsuitable for surface coal mining. The lands unsuitable petition, filed by the Chuitna Citizens NO-COALition, claims that the proposed mining area is unique and that the complex stream and wetland hydrologic system warrants protection and renders reclamation technologically infeasible. See Section VII for a more detailed discussion of the Chuitna Coal Project.

The Artic Slope Regional Corporation (ASRC) announced in July 2006 that it had signed a series of agreements with BHP Billiton (BHP) granting BHP exclusive rights to explore and possibly develop coal bearing lands held by ASRC in Northwestern Alaska. ASRC has conducted small scale coal exploration activities on its lands in the past, but by teaming with BHP it is hoped that full scale production is in ASRC's future. The preliminary findings appear promising.

Also, at the beginning of this evaluation cycle, a Canadian company was the successful bidder for a 22,647 acre coal lease in the Chickaloon area north of Palmer, Alaska. The company planned to initiate coal exploration activities with an eye toward development. After several public outreach meetings and numerous protests against the project, the proponent withdrew all interest in the project.

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

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

As mentioned in previous oversight reports, the State and OSM have provided several opportunities over the years for public involvement in both permitting activities and overall SMCRA program development and administration. Both DMLW and OSM have published public notices over the years in the State's two largest newspapers (Anchorage and Fairbanks) announcing DMLW sponsored public meetings at which interested parties could provide input. Over the years, the State has made other attempts to solicit public input, with limited success.

The State, in conjunction with the Alaska Coal Association, sponsored a 2-day workshop on August 28 and 29, 2003 to discuss proposed changes to the Alaska surface coal mining program. An OSM representative participated in the workshop as well. After approximately 2 years of work, OSM completed its review of the Alaska program amendment and published its decision in the November 9, 2005 Federal Register. After several cycles of review and revision during this evaluation cycle, the DMLW published the proposed final regulation package and provided for a public comment period. The state received 5 sets of comments, 4 from the coal industry and 1 from a citizen's environmental group. The state is planning to revise slightly the rules package based upon received comments prior to resubmitting the package to OSM for action. See Section VII for a more detailed discussion of Alaska's proposed regulatory program amendment.

With the increased interest in the coal resources located in the Sutton area and with greater potential for impacts, the DMLW thought that a different approach to public involvement was needed. As previously stated, Sutton is located approximately one hour northeast of Anchorage and has a higher population density than most of Alaska. To notify the local population of coal related activities, the DMLW publishes the normal newspaper notices as well as posts informational flyers throughout the Sutton community. The DMLW staff continues to keep the Sutton Community Council, the Chickaloon native community and the Buffalo Mine Road Community Council informed of all coal related activities. This is accomplished by attending Council meetings, distributing informational flyers and by arranging site visits for interested parties. DMLW has also encouraged representatives of the coal industry to attend Council meetings and to make presentations concerning their intentions in the area and to answer questions the residents may have. As part of its Abandoned Mines Land (AML) program, the DMLW has been reclaiming abandoned coal mine waste piles in this same area and has found it useful to notify routinely, the citizens of the status of the AML projects. DMLW

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

As previously mentioned, a Canadian firm acquired a 22,647 acre coal lease in the Palmer-Sutton area with the intention of initiating coal exploration activities in 2007-2008. The proposed exploration, with the possibility of mine development generated much public interest, mostly negative. Throughout the evaluation cycle, DMLW staff participated in numerous community meetings, made presentations, conducted interviews with both the print and radio media and conducted an informal conference. Due to the negative public interest, the proponent, Full Metal Minerals Inc., withdrew its plans to conduct exploration activities in the Chickaloon area.

Public participation is increasing in the Sutton area. During the last couple review cycles, public notices have generated a significantly higher number of public comments that have been addressed by DMLW. During past evaluation cycles, DMLW staff conducted public hearings for proposed coal leasing actions in the Sutton area. To maximize public participation opportunities, the State used the occasion to conduct an informal conference on the Jonesville permit application. This resulted in eight individuals providing comments to DMLW. Additionally, a spin-off of the increased communications is that on several occasions, local residents have notified DMLW staff about acts of vandalism at the permit sites as well as safety concerns involving smoldering coal waste.

During this evaluation cycle, a large amount of DMLW staff time has gone into the Chuitna Coal Project. During the last evaluation cycle, DMLW initiated and took the lead in developing a Memorandum of Understanding (MOU) between the U.S. Environmental Protection Agency (EPA), U.S. Army Corps of Engineers (COE), U.S. Fish and Wildlife Service (FWS) and the Alaska Department of Natural Resources. While the main purpose of the MOU is to establish a framework for coordinating the multi-agency processing of the Chuitna Coal Project permit application, the theme of public participation is woven throughout the document.

Additionally, the three lead permitting agencies, DMLW, EPA and COE jointly conducted four Environmental Impact Statement (EIS) scoping open houses and public meetings concerning the Chuitna Coal Project. Two meetings were held in the vicinity of the Tyonek native village to gather information and answer questions specific to the concerns of the native community. Due to the size and complexity of the proposed Chuitna Coal Project, public information and public involvement are critical components of this permitting process. Since August 2005, there have been approximately 120 meetings between state and Federal agencies, the applicant, native entities, the media and the general public. All parties, particularly, DMLW, are doing a fine job of ensuring public participation in this complex permitting action.

Another factor that has triggered increased public participation is the DMLW's increased use of the Internet to publicize permitting decisions, to make available permitting and other related documents and to solicit public participation and input. The DMLW has put

all of the coal permits on CD's and has placed a copy of the Wishbone Hill and Jonesville Mine permits in the Sutton and Palmer public libraries for public viewing.

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

After many years of inactivity, the DMLW submitted to OSM, in September of 2002, an informal program amendment package intended to address 78 program issues identified by OSM. OSM staff worked with DMLW staff to address identified deficiencies. Also, OSM and DMLW staff met with members of the Alaska Coal Association to address concerns and answer their questions. It all came to fruition when DMLW submitted its formal program amendment package to OSM on May 11, 2004. OSM completed its review of the State's proposed regulation package and published notice in the Federal Register on November 9, 2005, approving the State's submission. The State conducted its final review and initiated some formatting revisions to the rules package. Upon completion of the modifications, the rules package went to public notification for 30 days. The DMLW received 5 sets of comments, 4 from industry representatives and 1 from a citizens' environmental group. Based upon received comments, the state is planning on slightly modifying its rules package. Once revised, the rules package will be submitted once again to OSM for review and action. After OSM's decision on the rules package, the state must publish them for 30 days of public review and comment prior to adoption.

As part of its data management system, the DMLW has accumulated and cataloged thousands of digital photos of all active operations, exploration sites and areas of potential coal mining. The Alaska Department of Natural Resources has adopted the system of digital photo storage and retrieval developed by DMLW. This will dovetail with the State's data management system intended to integrate appropriate information from other Divisions within DNR for use by the DMLW staff.

After experiencing a great deal of staff turnover and weathering a long standing vacancy, the DMLW, at the end of the review cycle, had achieved full staffing for their regulatory program.

Very little coal remains to be mined at Poker Flats, which has prompted the DMLW staff to work closely with the UCM staff to achieve as much reclamation as possible at the Poker Flats Mine. The State and mine staff have worked together to develop accurate maps identifying reclamation timelines, reclamation status and other relevant field features. This effort will culminate with UCM attempting to complete all remaining mining, backfilling, grading and re-soiling work within the next 18-24 months. During the 2005 review cycle, the operator backfilled and graded 31 acres and re-soiled/reseeded approximately 46 acres. During the 2006 evaluation cycle, 50 acres were backfilled and graded. UCM backfilled and graded approximately 53 acres and seeded approximately 92 acres during this evaluation cycle. No requests for bond release were filed with DMLW

during this review cycle. It is anticipated that UCM will request all Phase I and Phase II bond releases at the same time.

The active mining at the Gold Run Pass Mine is winding down with little coal remaining to be mined. During the 2004 evaluation period, UCM applied for and was approved for Phase I and Phase II bond release for approximately 70 acres. This comprises mining areas 1 through 4 with only mining area 5 remaining to be mined and reclaimed.

During the previous evaluation cycle, OSM cooperated with Alaska DNR in the development of a computer based training room located within the DMLW office space. The collaborative effort resulted in a training facility with 15 student workstations and 1 instructor workstation with a ceiling mounted projector. This training facility is further discussed in Section VI, OSM Assistance.

DMLW has made digital versions of all active mine permit application packages available for viewing on the internal DNR network. Also, the DMLW has posted information about the Alaska coal regulatory program on its website. For those interested, the Internet address is:

www.dnr.state.ak.us/mlw/index.htm

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

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

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

A. Off-site Impacts

During the 2007 evaluation cycle, the DMLW inspection staff did not observe any off-site impacts. OSM staff participated in a mine site visit in Alaska in July 2006 and again in July 2007. An OSM inspector conducted joint oversight inspections with staff of the

DMLW in September of 2006 and is scheduled to return in September of this year. Due to climatic conditions and the shortness of the planting and growing season in Alaska, OSM schedules its field activities as late in the summer as feasible, so as to observe as much recent reclamation work as possible. During the joint OSM-DMLW mine visits and joint inspections, no off-site impacts were observed.

B. Reclamation Success

As reported in the 2006 annual evaluation report, Alaska released Phase I and Phase II bond on approximately 70 acres at the Gold Run Pass Mine. The DMLW did not release any reclamation bonds during the last two evaluation cycles. During the 2005 cycle, Usibelli Coal did backfill and grade 31 acres and re-soiled and reseeded another 46 acres. During the 2006 evaluation cycle, Usibelli Coal backfilled and graded approximately 50 acres. During this evaluation cycle, UCM backfilled approximately 44 acres, graded slightly over 9 acres and seeded about 92 acres of disturbed lands in the Healy Creek Valley. Coal removal is winding down at both the Gold Run Pass Mine and the Poker Flats Mine, so reclamation activities should continue to increase in the coming years.

C. Customer Service

The DMLW has actively sought to increase public awareness and involvement in the administration of its coal program. With recent leasing/re-permitting/AML activities taking place in the more populated Sutton area along with the controversial Chuitna project, the public has shown more interest in Alaska's coal program. DMLW attempts to meet regularly with the Sutton Community Council, the Chickaloon native community and the Buffalo Mine Road Community Council and when appropriate, make coal industry staff available to the interested groups. The DMLW staff, on numerous occasions, has conducted site visits with interested citizens living in the Sutton area.

Additionally, the DMLW, in conjunction with the two other lead permitting agencies, U.S.EPA and U.S.COE, conducted four public scoping meetings and scoping open houses pertaining to the Chuitna Coal Project. The permitting agencies, mainly DMLW, have taken extraordinary measures to keep the public informed and to provide opportunities for public participation.

The DMLW and other appropriate agencies have conducted or participated in approximately 120 meetings between state and Federal agencies, the applicant, native village representatives, the public, the environmental community and the media.

Toward the end of the evaluation cycle, a citizens coalition filed a petition to designate the Chuitna River watershed as lands unsuitable for surface coal mining. Prior to the

formal submission of the petition, staff from DMLW met with members of the coalition on several occasions to address their concerns.

As previously noted, the DMLW, in conjunction with OSM, attended a 2-day working session with members of the Alaska Coal Association to identify issues associated with the State's proposed program amendment. The amendment package was formally submitted to OSM in May of 2004. OSM published a public notice announcing receipt of the proposed regulation package and the opportunity to provide comments. OSM took the comments into consideration while conducting its review of the State's package. OSM announced its approval of the rules package in the November 9, 2005 Federal Register. As previously discussed, DMLW published its proposed final rules package that had been approved by OSM and provided a public comment period. The state received 5 sets of comments, 4 from the coal industry and 1 from a citizens' environmental coalition. The DMLW is in the process of revising its rules package based upon the public comments received. After the State completes its final modifications, the rules package will be resubmitted to OSM for review and action.

VI. OSM Assistance

Throughout the evaluation cycle, OSM staff from the OSM Olympia Area Office and the OSM Western Region(WR) provided informal, undocumented assistance to DMLW staff. Primarily, the assistance was generated by telephone inquiries concerning permitting, procedural/administrative or technical issues. The small size of both the DMLW staff and the Olympia Area Office staff lends itself to such informal communications.

On a more formal note, OSM's Technical Librarian filled 1 reference request and provided DMLW staff with 2 technical journal reprints. Additionally, the Alaska Service Manager from OSM's Technical Innovation and Professional Services (TIPS) provided on-site consultation to both Title IV and Title V program staff concerning information technology support.

During the previous evaluation cycle, OSM worked with Alaska DNR in the development of a computer based training room located within the DMLW office space. This training facility, which commenced operation in September 2005, can accommodate 15 students at fully equipped work stations with 1 instructor work station supported with an overhead projector. The computer training facility has been very popular with other Divisions within DNR. During this evaluation cycle over 150 training sessions were conducted.

The collaborative effort, as formalized in a Memorandum of Agreement, calls for DNR to provide space and equipment with OSM providing software and training materials. Additionally, OSM provides trainers at a nominal fee and allows DNR staff to attend TIPS

classes at the training facility at no cost. OSM anticipates utilizing the training center for TIPS/NTTP training when advantageous.

DMLW staff control the scheduling of the computer training center with the emphasis being on technical software instruction. The training facility will also be available for non-technical generic software training. The room and equipment was designed and configured in such a way so as to be able to accommodate non-computer based training activities as well.

The DMLW has received considerable interest from several agencies within DNR as well as other Departments within State government. There also appears to be interest in mining and reclamation software training from the coal industry and Native Corporations.

VII. General Oversight Topic Reviews

Program oversight activities and oversight related discussions between Alaska DMLW and OSM occur routinely and regularly throughout the entire evaluation cycle. This is possible due to the small and stable population of operating mines in Alaska. Another key to the success of this approach is the solid, day-to-day working relationship and open lines of communication between DMLW staff and OSM staff. Due to the small size of the DMLW staff and the OSM Olympia Area Office staff, there is a great deal of discussion about routine program matters and operational issues. This approach has resulted in an informal and comfortable relationship that allows for the easy transfer of ideas and information. As a result of this approach, there are rarely any surprises involving program implementation.

OSM and DMLW each have an individual designated as the lead program evaluation team representative to handle routine oversight matters. Should the need arise, technical specialist from OSM's WR or specialists from other agencies within state government would be involved in the program evaluation process. For this evaluation cycle, it was decided to conduct follow-up assessments of 2 ongoing topics. The first topic involves DMLW's efforts to maintain its permanent program regulations in a manner no less effective than the Federal regulations at 30 CFR. The second topic involves review of DMLW's processing, to date, of a proposed permit application from PacRim Coal LP, for a project known as the Chuitna Project. This proposed project will be very complicated, involving 3 separate DMLW permits along with several other State and Federal permits. DMLW has been reviewing baseline data packages submitted by numerous consulting firms. Additionally, DMLW received a petition to designate the proposed site as unsuitable for coal mining. The third topic involves DMLW's progress in addressing erosion at the Poker Flats Mine, the subject of an OSM issued Ten-Day Notice (TDN) issued to Alaska on November 13, 2006.

In addition to evaluating these individual program components, OSM Olympia, throughout the evaluation year, receives and reviews copies of all inspection reports, all enforcement documents, grant documents and permitting related documents.

➤ Maintenance of Approved Program

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

A tentative schedule and draft list of program revisions were submitted by DMLW to OSM for review and comment. Due to budget constraints and the events of September 11, 2001, a working meeting planned in Anchorage did not take place. Numerous telephone conversations between OSM staff and DMLW staff concerning program amendment issues took place during that evaluation year. During the 2002 evaluation year, the DMLW staff made working on the program amendment a top priority. An OSM staff member spent one week in Anchorage working with the State staff to resolve some issues and to provide some guidance on this matter.

A follow-up meeting was held in Anchorage in early September of 2002, to resolve a few remaining issues and to review a draft informal program amendment package. After making some last minute revisions based on those discussions, DMLW submitted an extensive informal program amendment package to OSM in late September 2002. The amendment package was intended to address approximately 78 issues identified by OSM over the years.

OSM conducted a detailed review of the State's informal submission and developed a list of items that needed to be addressed. On April 30, 2003, OSM mailed to DMLW a letter identifying those items. DMLW staff and OSM staff met in Olympia Washington on May 15, 2003, to discuss the identified deficiencies. Based on that discussion, several items were able to be removed from the deficiency list. OSM followed up that meeting with a second letter, dated May 29, 2003, identifying the agreed upon remaining deficiencies.

On May 11, 2004, DMLW submitted to OSM its formal program amendment package. OSM staff conducted an extensive review of the formal submission and announced its receipt and availability for review and comment by the public in the July 19, 2004, Federal Register. OSM received comments from the Anchorage office of the Bureau of Land Management. OSM notified Alaska on October 4, 2004, of the identified issues concerning the program submission. Alaska responded in a letter dated April 1, 2005, by submitting a revised amendment package. Based upon Alaska's revisions to its amendment, OSM reopened the comment period in the June 23, 2005, Federal Register. OSM received comments from one Federal agency and one local agency. After

addressing the comments, OSM announced its approval of the rules package in the November 9, 2005 Federal Register.

During the 2006 evaluation cycle, the State initiated some formatting revisions as well as some housekeeping measures. Upon completion of the modifications, the rules package went to public notification for a minimum of 30 days due to the length of time since the last public notification. The DMLW received 5 sets of comments, 4 sets from the coal mining industry and 1 set from the Trustees for Alaska, a citizens' environmental coalition. Based on the comments received, DMLW has decided to slightly revise the amendment package. Additionally, DMLW inadvertently deleted Article 18 from its regulation package that was published for public review and comment. Article 18 is the "Definitions" section of Alaska's surface coal mining regulations. In addition to the minor changes DMLW is making to the rules package, it is planning to reinsert the "Definitions" section. Due to the changes, DMLW must republish a public notification for a 30 day period. DMLW staff has targeted September for publishing the last public notice.

After the public notice, if everything is acceptable, the amendment package will be resubmitted to OSM for concurrence prior to the Commissioner of DNR drafting a notice of the rules package and forwarding it to the Attorney General's Office for a substantive review. If acceptable, the package then goes to the Regulatory Review office within the Attorney Generals office for a review for regulatory compliance, consistency, form and format which are the steps prior to adoption. Hopefully this is the last go-around for this regulation package. OSM continues to monitor the State's actions in bringing this issue to closure.

➤ **Chuitna Coal Project**

The Chuitna Coal Project is a proposed surface coal mining and export development project located in the Beluga Coal Field of Southcentral Alaska, approximately 45 miles west of Anchorage. The proposed project includes: a surface coal mine and associated support facilities (Chuitna Coal Mine); a mine access road, coal transport conveyor, personnel housing and an air strip facility (Chuitna Project Infrastructure); and, a logistics center and coal export terminal (Ladd Landing Development). The coal export terminal will include a 10,000-foot long trestle built out into Cook Inlet for the purpose of loading ocean-going transport ships.

This lease area was the subject of a permit review and Environmental Impact Statement (EIS) in the late 1980's and early 1990's. After the State regulatory authority announced its decision to approve the permit, an appeal was filed and upheld, in part, by the Court. That decision resulted in lengthy delays which, when combined with a downturn in the coal market, killed the project. Since that time, there have been major changes in the regulatory requirements as well as the proposed project itself; for these reasons, it has been decided by the regulatory community that a comprehensive Supplemental Environmental Impact Statement (SEIS) will be prepared. The SEIS will replace the initial EIS in its entirety.

On October 18, 2005, the applicant and its consultant / legal team met with representatives of EPA, DNR and OSM in Seattle to provide introductory information on the proposed project and solicit feedback from the regulatory community. This pre-application, pre-scoping meeting generated a very valuable exchange of questions and information among the participants. Based on the comments received at the pre-application meeting, the applicant modified its proposal prior to submitting material to the EPA.

On March 17, 2006, PacRim submitted to the U.S. Environmental Protection Agency's (EPA) Region 10 office in Seattle, Washington, a new source National Pollutant Discharge Elimination System (NPDES) permit application for the Chuitna Coal Project. This action by the applicant starts the permitting process. EPA will be the lead agency in the preparation of the SEIS with the U.S. Army Corps of Engineers and the Alaska Department of Natural Resources being cooperating agencies. The U.S. Fish and Wildlife Service will participate as a consulting agency.

The DMLW, working with the other key permitting agencies, developed a Memorandum of Understanding to establish a framework for coordinating the permitting efforts associated with the Chuitna Coal Project. Due to the size and complexity of the issues associated with this project, the permitting effort will involve many State and Federal agencies, many with no prior experience in permitting coal mines. The DMLW, in the MOU, identifies the various laws that must be complied with and associated permits that must be issued before the Chuitna Coal Project becomes operational.

The main purpose of the MOU is to coordinate the regulatory process to the maximum extent possible, by preventing needless duplication and paperwork, sharing resources where possible, establishing reasonable schedules, coordinating data collection, conducting joint meetings when possible; generally maximizing use of available resources and minimizing duplication of overlapping agency responsibilities. The MOU was signed in May, 2006, by the Commissioner of the Alaska Department of Natural Resources, the Deputy Regional Administrator of the U.S. Environmental Protection Agency, the Chief of the Regulatory Branch of the U.S. Army Corps of Engineers and the Field Supervisor of the Anchorage Office of the U.S. Fish and Wildlife Service.

On May 2, 2006, an agency scoping meeting was held to discuss the Chuitna Project. Agency scoping is the first phase of the NEPA process. The intent of this phase of scoping was to inform the involved agencies about the project and to solicit their participation and input in the permitting process.

The public scoping process began on June 9, 2006 with the Federal Register publication of a Notice of Intent to prepare an SEIS that will evaluate the potential impacts of the proposed project. The notice, published jointly by the three primary permitting agencies, announced four opportunities for the public to attend scoping open houses and public meetings and to tell public officials what they think should be evaluated and to discuss potential impacts of the proposed project. Two of the public meetings were held within the Tyonek native community to solicit comments specific to native concerns. The public scoping meetings took place in early to mid-July of 2006, at the very beginning of this evaluation cycle.

The permitting agencies, particularly DMLW, have taken extraordinary measures to keep the public informed and to maximize opportunities for public participation. The DMLW and other involved agencies have conducted or participated in approximately 120 meetings between state and Federal agencies, the applicant, native village representatives, the general public, the environmental community and members of the media. It should be noted that several of the permitting agencies have never participated previously in the review of a surface coal mine permit application.

During this evaluation cycle, the applicant, PacRim, through its numerous consultants, has been gathering data and submitting baseline data reports to DMLW. The permitting agencies have been reviewing preliminary drafts of numerous reports and providing comments back to the applicant. By the end of the evaluation cycle, all but the following five baseline data reports had been reviewed:

- Fish Studies
- Terrestrial Wildlife
- Hydrologic Studies
- Soils
- LADD Landing

Granted, the remaining reports are very important; however, the permitting entities have made very good progress in gaining experience in reviewing SMCRA/ASCMCRA based permitting documents. This approach should expedite the completeness and technical adequacy review once the formal PacRim permit application is received. The DMLW anticipates receiving all three of the permit applications that will comprise the Chuitna Coal Project sometime in the Fall of 2007.

On June 14, 2007, the Alaska DNR received a petition to designate all lands within the Chuitna River watershed as unsuitable for surface coal mining activities. The petition was filed by The Chuitna Citizens NO-COALition, an alliance of local residents, property owners and conservation groups concerned about impacts from the proposed Chuitna Coal Project. The Trustees for Alaska, a nonprofit public law firm is providing legal counsel to the petitioners.

The petition area, the entire Chitna River watershed, encompasses approximately 150 square miles, or about 96,000 acres on the western shore of Cook Inlet. The petitioners claim that the Chuitna River, a 17 mile non-glacial river with approximately 12 tributaries supports a world-class fishery of all five species of North American Pacific wild salmon, trout and Dolly Varden and provides important habitat for moose, bald eagles, grizzly and black bears and coastal wetlands for ducks, geese and shorebirds. The petitioners state that the area's unique and complex stream and wetland hydrologic system warrants protection as well as renders reclamation technologically infeasible.

Although outside of this evaluation cycle, the Deputy Commissioner of DNR, after a review of the petition, responded to the petitioners on July 16, 2007. In its response, the state returned the petition to the petitioners on the basis that it included lands that the state found to be exempt from the petition process. In addition, the DNR notified the petitioners that other portions of the petition document were incomplete while other portions were found to be without merit. The DNR complied with the regulatory requirements at 11 AAC 90.703(a) by notifying the petitioners of its completeness decision within 30 days of receipt.

On August 6, 2007, the petitioners submitted a written request for the Commissioner of DNR to reconsider the state's initial decision to return the lands unsuitable petition. It appears that the state is prepared to grant the petitioners request for reconsideration. OSM will continue to monitor the state's handling of the petition as well as the processing of the Chuitna Coal Project permit application during the 2008 evaluation cycle.

➤ Erosion in Healy Creek Valley

Representatives from OSM's Western Region conducted site visits at UCM's surface coal mining operations located in the Healy Creek Valley during the first week in August 2006. During the visits, OSM staff noticed several areas of extensive erosion and development of rills and gullies on regraded slopes at UCM's Poker Flats Mine.

Concern over the stability of the regraded slopes, the potential impacts to the post-mining land use and possible adverse changes to the quality and quantity of surface water prompted OSM to initiate a conference call with staff from DMLW to discuss this issue on August 15, 2006. OSM staff identified its concerns and stated that UCM appeared not to be in compliance with two state regulations. The first, 11AAC 90.443(b), requires that "Backfilled material must be placed to minimize erosion and adverse changes to the quality and quantity of surface and ground water systems, minimize off-site effects and support the post-mining land use". The second regulation, 11AAC 90.449, requires that, "Rills or gullies which form in areas that have been regraded...must be stabilized and the areas reseeded or replanted if they are disruptive to the approved post-mining land use or may result in additional erosion and sedimentation".

DMLW staff indicated they too had serious concerns about the on-going issue of rills and gullies, particularly at the Poker Flats Mine. Over the years, the state has taken several different approaches to address this issue. In the beginning, UCM was required to re-grade the slopes and ditches back to their original, designed configuration during the winter months; this approach did not solve the problem.

DMLW staff, working with staff from UCM, then tried placing woody debris in the rills and gullies in an attempt to slow the cutting and to act as a sediment trap and a trap for seeds, hoping to get some vegetation established in the ditches; this approach too had limited results.

In 2000, DMLW required UCM to create a tracking system to identify the major erosion features on aerial photos and prioritize the needed remedial work. UCM tried several different techniques to remediate the rills and gullies, ranging from hand methods to complete regrading of the slopes. In most cases this approach was successful with the exception of the Poker Flats Mine.

Over the years, UCM has contracted with several consultants, nationally recognized in the field of soils and erosion control, and brought them to the area to assist in solving this problem; this approach too has had marginal results.

In September 2006, staff from UCM and DMLW attended an OSM sponsored workshop in Farmington, New Mexico titled, "National Interactive Forum on Geomorphic Reclamation". While attending the workshop, DMLW staff had discussions with staff from the New Mexico program as well as industry representatives with experience in geomorphic reclamation. DMLW staff believed the geomorphic design approach could be beneficial to those operations in the Healy Creek Valley.

DMLW staff made the geomorphic design concept a permit condition at UCM's Two Bull Ridge Mine and placed similar conditions on UCM's Poker Flats Mine 2006 permit renewal.

In spite of these efforts, OSM issued a Ten-Day Notice to Alaska based on a joint oversight inspection conducted in late October 2006. The TDN was issued because OSM believed UCM was in violation of state regulation 11AAC 90.499 as previously discussed in this section.

The DMLW responded to OSM's TDN on December 1, 2006. The State's response discussed the history of naturally occurring erosion and landslides in undisturbed environments located in the Healy Creek Valley. The state provided precipitation data showing that extremely intense storms pounded the area in 2004 and 2005 during the peak reclamation construction season. The state identified the efforts of both UCM staff and DMLW staff to get a handle on the erosion situation at the Poker Flats Mine and Two Bull Ridge Mine, including the issuance of an NOV in each of the last two evaluation cycles.

In the TDN response, the state's summary statement concluded that erosion at the Poker Flats Mine can not be addressed by dealing with individual rills and gullies as they form; but rather the approach must be more holistic by focusing on the fundamental problem of reducing the hydrologic impacts to the erosive soils. Both DMLW and UCM think this will be accomplished best by applying geomorphic design principals to channel construction and land shaping so as to create a more natural and stable surface drainage system. Both entities realize this approach will have successes and failures. The DMLW responded to OSM's TDN by stating that even though erosion features develop on regraded slopes, this, in and of itself, does not warrant an enforcement action because the operator re-grades said rills and gullies and stabilizes the slopes. The state has demonstrated that if warranted, it is prepared to issue an NOV.

On February 13, 2007, OSM acknowledged DMLW's response to the TDN and agreed that the state was taking appropriate measures to address the issue of erosion in the Healy Creek Valley and that it would take an enforcement action if warranted. OSM went on to state that the DMLW's response to the TDN demonstrated good cause for not taking an enforcement action.

OSM continues to monitor this situation and will evaluate it again in the coming evaluation year.

For more information on these evaluation topics, or any other aspect of the 2007 annual oversight process, feel free to contact:

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APPENDIX 1:

These tables present data pertinent to mining operations and State and Federal regulatory activities within Alaska. They also summarize funding provided by OSM as well as Alaska staffing. Unless otherwise specified, the reporting period for the data contained in all of the tables is July 1, 2006 to June 30, 2007. Additional data used by OSM in its evaluation of Alaska's performance is available for review in the evaluation files maintained by the Olympia, Washington OSM Office.

NOTE:

Table 1

When OSM's Directive REG-8, Oversight of State Programs, was revised in December 2006, the reporting period for coal production on Table 1 was changed from a calendar year basis to an evaluation year basis. The change was effective for the 2007 evaluation year. In addition to coal production figures for the current year, Table 1 also contains the coal production figures from annual evaluation reports for the two most recent prior years. Therefore, for the 2007 annual evaluation report, coal production figures are provided for 2005, 2006 and 2007. In order to ensure that coal production for these three years are directly comparable, the calendar year production figures from 2005 and 2006 annual evaluation reports were recalculated on an evaluation year basis (July 1-June 30). This should be noted when comparing coal production figures from annual evaluation reports prepared both before and after the December 2006 revision to the reporting period.

Table 5

It may appear from the data in Table 5 that Alaska significantly increased its acreage under bond during this review period; this is not the case. Rather, the State modified its method of record keeping by calculating every permitted acre as being a bonded acre rather than just calculating the disturbed acres as bonded acres.

APPENDIX 2: