

**OFFICE OF SURFACE MINING
RECLAMATION AND ENFORCEMENT**

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

ALASKA

**EVALUATION YEAR 2002
OCTOBER 1, 2001 TO SEPTEMBER 30, 2002**



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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 October 1, 2001 to September 30, 2002. 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:

DMLW	Division of Mining, Land and Water
DNR	Alaska Department of Natural Resources
GVEA	Golden Valley Electric Association
NOV	Notice of Violation
OSM	Office of Surface Mining
OTT	Office of Technology Transfer
PF	Poker Flats
PITS	Permit Information Tracking System
SMCRA	Surface Mining Control and Reclamation Act of 1977
TBR	Two Bull Ridge
TDN	Ten Day Notice
TIPS	Technical Information Processing System
UCM	Usibelli Coal Mine Inc.
WRCC	Western Region Coordinating System
GRP	Gold Run Pass

EPA U.S. Environmental Protection Agency

NPSI Nerox Power Systems Inc.

II. Overview of the Alaska Coal Mining Industry

As stated in previous annual evaluation reports, Alaska is home to enormous coal reserves, estimated to be approximately 170 billion tons; however, presently, coal mining does not contribute significantly to the overall economy of the State. Most of the economic benefits resultant from the coal industry are realized at the local level. At present, Healy, Alaska is the only area where active coal mining is taking place. Despite the fact that the Healy area economy is becoming more diversified, primarily due to increased tourism, the area relies heavily on the economic contributions made possible by the mining activity.

The three actively producing surface mines are located in the Hoseanna Creek Valley, near Healy, and historically employ approximately 125 to 150 people and the adjacent Golden Valley Electric Association (GVEA) mine mouth power plant employs about another 50 people. Much of the coal mined in the Hoseanna Creek Valley is burned by the GVEA power plant; however, some is transported by rail and truck to other facilities in Fairbanks and to military bases throughout the State. In the past, the mine operator, Usibelli Coal Mine Inc. (UCM) has exported a sizable portion of the approximately 1.6 million tons mined in the area to South Korea.

However, towards the end of the evaluation year, the South Korean government terminated their coal contract with UCM. This probably will result in decreased production during the next evaluation cycle. The decreased production will also result in a smaller workforce in the near term with employment projected to decrease to around 100.

Not only is UCM the largest year-round employer in the Healy area, the company is very active in the community by supporting many local activities. Before the Korean contract was terminated, approximately 1.6 million tons of coal was mined annually in the Healy area. In spite of the setback associated with the loss of coal sales to South Korea, UCM is confident it is temporary and is working with the GVEA power plant to explore various options as well as pursuing new coal markets.

UCM is near completion of its coal mining activities at its Gold Run Pass Mine (GRP). Coal production is increasing at the Two Bull Ridge Mine (TBR), which lies north of the Poker Flats Mine (PF) just across the Hoseana Creek. At full production, the Two Bull Ridge Mine is capable of producing approximately 2.1 million tons of coal.

On April 4, 2002, DNLW approved UCM's Rosalie Mine surface coal 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. This is the first new surface coal mine permit issued by the Division of Mining, Land and Water (DMLW) since the Two Bull Ridge permit was issued in 1997.

UCM has assumed, through permit transfer, the leasing and mining rights to two additional DMLW permits as well as an exploration permit. UCM plans to develop this area when the coal market improves. The permits are located in an area known as Wishbone Hill, about 1 hour northeast of Anchorage, near the town of Sutton. Considering that transportation concerns and costs often make Alaska coal economically unfeasible, the location of UCM's Wishbone Hill permits could trigger increased mining activity in the State. Although UCM has not actively pursued production at the Wishbone Hill Mine, they renewed both permits associated with that area during this evaluation year.

At the close of the 2000 evaluation cycle, the operator of a struggling underground coal mine, the Jonesville Mine, also located in the Sutton area, was in the process of selling its assets to another company. The potential mine purchaser had expressed an interest to the DMLW staff in transferring the permit. Since that time, the present owner, Nerox Power Systems, Inc.(NPSI), has decided to retain both the coal leases and the permit. DMLW has been working diligently to address some remaining permitting issues. OSM and DMLW staffs are both interested in bringing closure to the issues associated with the NPSI operation. For more information, please refer to Sections IV and VIII of this report. This situation continues to be monitored by OSM.

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

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

In the past, DMLW management thought a more targeted approach was needed due to the size and remoteness of Alaska. DMLW approached the Alaska Center for the Environment and asked if a representative from that group would be interested in serving

on a multi-interest group representing all stakeholders. Although the Alaska Center for the Environment never formally appointed a representative nor accepted the State's offer, the DMLW attempts to keep all stakeholders informed of its decisions.

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

In the review and issuance of UCM's Rosalie Mine Permit, DMLW conducted two public notice periods. Newspaper advertisements were placed in both the Anchorage and Fairbanks daily newspapers, flyers were posted on local bulletin boards, notices were mailed to DMLW's mailing list and information was posted on DMLW's website. Some public comments were received, but no issues of concern were raised.

It should be noted that public participation is increasing in the Sutton area. During the last couple of review cycles, public notices have generated a significantly higher number of public comments that have been addressed by DMLW. 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.

In keeping with the State's approach of targeting specific potentially impacted stakeholders, the DMLW invited the Alaska Coal Association and environmental groups to review and comment on its informal program amendment. The program amendment is intended to address the remaining issues/deficiencies associated with Alaska's coal mining regulations as identified by OSM. The Alaska Coal Association and environmental groups are still reviewing the informally submitted regulations.

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 even placed a copy of the Wishbone Hill permits in the Sutton and Palmer public libraries for public viewing.

IV Major Accomplishments/Issues/Innovations in the Alaska Program

After many years of false starts, staffing changes and inactivity, the DMLW submitted to OSM, in September, an informal program amendment package intended to address 78 program issues identified by OSM. OSM staff worked with DMLW staff during the evaluation year to assist them in preparing the amendment package. After addressing OSM's comments and those of the Alaska Coal Association and environmental groups, the DMLW will submit the formal program amendment package to OSM for consideration.

For the first time since program approval, a joint mine evaluation was conducted by staff from the DMLW, OSM and the U.S. Environmental Protection Agency (EPA) during the month of September. The main focus of the site visit was sedimentation ponds and other drainage control structures.

The DMLW has been revising and improving its data management system, Coal Permitting Information Tracking System (Coal PITS). As discussed in the 2001 annual evaluation report, the State was working on its second-generation data management system Coal PITS-2. Since then, the DMLW has been working with a person from the Colorado regulatory program, under an OSM Office of Technology Transfer (OTT) grant to develop Coal PITS-3. For more information, see Section VI, OSM Assistance.

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 Coal PITS-3 which is intended to integrate more information from other Divisions within DNR for use by the DMLW staff.

The DMLW has worked closely with the UCM staff to accomplish a tremendous amount of grading at the Poker Flats Mine. The operator should finish all mining at Poker Flats this year and enter into the reclamation phase.

The Nerox Power Systems, the permittee for the Jonesville Underground Mine, located near Sutton, has resolved most of its lease issues with the mineral owner, the Alaska Mental Health Trust Fund and has paid one year of royalties in advance. The DMLW was instructed to suspend all re-permitting activities until the lease issues were resolved. Although outside of the purview of this evaluation cycle, the DMLW recently provided Nerox Power Systems with the completeness and technical review findings for its re-permitting application.

DMLW has made the digital versions of all active mine permit application packages available for viewing on the internal DNR network (which is also accessible to OSM). Also, the DMLW has posted information about the Alaska Regulatory Program on its website. For those interested, the Internet address is:

The DMLW is effectively maintaining and administering the Alaska Surface Coal Mining and Reclamation Act. OSM expects DMLW to finalize and submit to OSM a formal program amendment, to continue making progress on the Nerox Power System re-permitting effort, to successfully complete Coal PITS-3 and to continue working with the operators, promoting reclamation on all active sites.

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

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

A. Off-site Impacts

On July 15 through 17, 2002, the Reclamation Specialist from OSM's Olympia Office, along with two DMLW inspectors, conducted oversight inspections at three active UCM coal mines operating in the Hoseana Creek Valley near Healy.

The focus of the three mine inspections was on sedimentation structures, drainage control systems and erosion. Although an issue arose concerning a series of sedimentation ponds on the Two Bull Ridge Mine, OSM did not issue a Ten-day Notice (TDN) and no Notice of Violation (NOV) was written by the State inspectors.

There were no violations observed during the July inspection nor during the joint OSM/UCM /EPA site visit made during September and as shown on Table 4, no off-site impacts were identified during the entire evaluation year.

B. Reclamation Success

As Table 5 indicates, the State received an application for 68.6 acres of Phase I and Phase II bond release on the Gold Run Pass permit area. DMLW conducted a bond release inspection during this evaluation period, and determined that the bond release can be approved. Currently, DMLW staff is working with UCM staff to finalize approval.

C. Customer Service

The DMLW has actively sought to increase public awareness and involvement. Not until UCM's recent leasing/re-permitting activities in the more populated Sutton area, has the

public shown much interest in Alaska's coal program. DMLW attempts to meet regularly with the Sutton Community Council, the Chickaloon native community and the Buffalo Mine Road Community Council and when appropriate, make UCM staff available to the same groups. The DMLW staff, on numerous occasions, has conducted site visits with interested citizens living in the Sutton area; however, the staff at DMLW does not anticipate much in the way of public participation or input until active mining commences in the Sutton area.

During this evaluation cycle, DMLW approved the Rosalie Mine Permit, Alaska's first new coal mine permit in six years. Although some public comments were received, no issues of concern were raised.

During this evaluation cycle, the DMLW renewed both of the Wishbone Hill permits. Although the permit areas are located in the Sutton area, the public did not show much interest in the permitting process. The DMLW did not receive any citizen complaints during this evaluation cycle.

VI OSM Assistance

The DMLW continues to work on its electronic permitting initiative, which at this time has two fully searchable permits (text and AutoCAD maps) in electronic format. The operators of other mines and two exploration sites have submitted partial electronic documents. In order to assist the State in its paperless office implementation, OSM provided the opportunity to attend presentations by Virginia's Division of Mined Land Reclamation on their electronic permitting system and Colorado on their electronic permitting data base system. These presentations have encouraged DMLW to upgrade Coal PITS with OSM's Office of Technology Transfer assistance. The new data management system will allow DMLW to track all permitting activities, including inspection and enforcement actions, disturbance and reclamation progress, mapping and imagery.

OSM provided technical assistance on co-jurisdictional bonding for Federal, State and Local agencies with jurisdiction over reclamation of a silver mine in Alaska. OSM drafted some model forms based on the U.S. Forest Service surety bond and letter of credit forms for the Alaska DNR and State Attorney General's Office. Also, upon request, OSM provided DMLW with articles and information about the status of the surety industry.

OSM provided the following materials to the DMLW technical library: two manuals entitled, *Performing Water Quality Flow Measurements At Mine Sites*, and *Technical Measures For the Investigation of Fugitive Methane Hazards in Areas of Coal Mining*; two textbooks entitled, *Soil Erosion and Explosives, Engineering, Construction Vibrations and Geotechnology*; three other publications, two journal article reprints, seven CD-ROMs and three videos including an eight-hour training course on *Acid Rock Drainage Prediction and Treatment*. Through the OTT, Alaska provided the WRCC a

copy of its draft *Surface Coal Mine Blasters Study Guide*, and provided opportunity to review and comment on the materials prior to finalizing them.

OSM also provided the opportunity for one DMLW employee to participate in and make a presentation at OSM's interactive forum on *Approaching Bond Release: Post Mining Land Use in the Arid and Semi-Arid West* held August 25-30 in Bismarck, North Dakota. The DMLW staff member participated in two GIS workshops and made two Power Point presentations entitled, *Introduction to Digital Images and Common File Types* and *Post Mining Land Use in Alaska*. He also participated with the other six western State representatives in the closing session, *Post Mining Land Use and Bond Release Statistics*.

Additionally, staff from OSM's Technical Information Processing Systems (TIPS) staff conducted a three-day AutoCAD training course in Anchorage during February. The training was conducted jointly for staff from DMLW and staff from the U.S. Bureau of Land Management located in the Anchorage area. TIPS staff also conducted routine servicing functions on DMLW TIPS computer hardware during the month of October.

VII General Oversight Topic Reviews

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

- DMLW's maintenance of its approved program
- DMLW's handling of the Nerox Power System Inc.'s permit

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

➤ **Maintenance of Approved Program**

This topic, a follow-up topic from previous years was selected because not much was done to address program maintenance during the 2001 evaluation cycle. OSM's Management Council has identified program maintenance as a high priority for the agency. This is due in part because some citizen-based lawsuits have been filed against some other State regulatory agencies for not adequately maintaining their approved program in accordance with SMCRA. During the 2001 evaluation year, OSM prepared and forwarded to DMLW a complete list of needed modifications to the Alaska program. The State 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 the 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 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 is intended to address approximately 78 issues identified by OSM over the years. OSM is currently in the final stages of its review and will provide DMLW with its comments.

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

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

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

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

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

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

Concurrent with DMLW's re-permitting efforts, the Alaska Mental Health Trust Land Office requested that DMLW cease all permit application processing activities until Nerox had resolved all lease related issues involving the Mental Health Trust Funds lands. The DMLW stopped all permit related reviews and at the end of the evaluation year, everything was on hold. (Note: At the beginning of the calendar year, the DMLW received word from the Mental Health Trust Land Office that most lease/royalty related issues had been resolved and gave DMLW the go-ahead to resume processing the permit renewal application. On January 6, 2003, the DMLW

provided Nerox Power Systems Inc. with a lengthy completeness/ technical review list of issues that need to be addressed.

DMLW continues to enforce strictly the permit conditions. The staff continues to conduct regular mine inspections, and are ensuring that NPSI is diligent in mitigating any off-site impacts, maintaining the mine site in a safe condition, and keeping current with their monitoring and maintenance requirements. OSM will continue to monitor this on-going issue and provide support when requested.

For more information on these evaluation topics, or any other aspect of the 2002 annual oversight process, feel free to contact:

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Attn: Glenn Waugh
(360) 753-9538

APPENDIX A:

These tables present data pertinent to mining operations and State and Federal regulatory activities within Alaska. They also summarize funding provided by OSM as well as Alaska staffing. Unless otherwise specified, the reporting period for the data contained in all of the tables is October 1, 2001 to September 30, 2002. Additional data used by OSM in its evaluation of Alaska's performance is available for review in the evaluation files maintained by the Olympia, Washington OSM Office.

APPENDIX B: