

**STATEMENT OF
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U.S. DEPARTMENT OF THE INTERIOR**

BEFORE THE

**COMMITTEE ON NATURAL RESOURCES
SUBCOMMITTEE ON ENERGY AND MINERAL RESOURCES
U.S. HOUSE OF REPRESENTATIVES**

**ON THE
FISCAL YEAR 2009 BUDGET REQUEST**

FEBRUARY 28, 2008

Mr. Chairman and Distinguished Members of the Subcommittee, I am pleased to present to you the Fiscal Year (FY) 2009 budget request of the Office of Surface Mining Reclamation and Enforcement (OSMRE).

Background

For over 200 years, coal has been integral to America's success. It has fueled our factories, made our steel, warmed our homes, enabled us to win two world wars, and moved people and goods across coasts during a period of dramatic expansion and development. While the role of coal in our daily lives has been overshadowed in the public eye for oil and gas, it is no less important. In fact, the electric power industry now uses 90 percent of the coal consumed in America. Today electricity is the backbone of our economy and is integral to the daily life of each and every American. More than half of our nation's electricity now comes from domestic coal.

Coal is the Nation's leading source of domestic energy. Thirty years ago coal ranked third behind petroleum and natural gas in domestic energy production. Since then, natural gas production has remained flat, petroleum production has sharply declined, and now coal is in first place for domestic energy production. The Energy Information Administration expects coal to remain the primary fuel for electricity generation over the next 20 years and forecasts an increase in coal production to match that demand.

The Surface Mining Control and Reclamation Act of 1977 (SMCRA) established the OSMRE for two basic purposes. First, to assure that the Nation's coal mines operate in a manner that protects citizens and the environment during mining operations and restores the land to beneficial use following mining; and second, to implement an Abandoned Mine Lands (AML) program to address the hazards and environmental degradation still remaining from two centuries of unregulated mining. These tasks are vital to the United States.

SMCRA recognized the need to assure that the Nation strikes a balance between the protection of the environment and agricultural productivity and the Nation's need for coal as an essential source of energy. The Nation's coal supply is essential to the Nation's energy requirements. OSMRE is committed to carrying out the requirements of the Surface Mining Control and Reclamation Act in cooperation with States and Tribes. Our primary objectives are to ensure that coal mines are operated in a manner that protects citizens and the environment during mining and assures that the land is restored to beneficial use following mining, and to mitigate the effects of past mining by aggressively pursuing reclamation of abandoned coal mines. Despite 30 years of cleanup efforts, extensive hazards and degradation from past mining still remain.

However, the OSMRE does not fulfill these tasks alone. Of the almost 2,400 employees involved in carrying out these two responsibilities on a daily basis, less than 25 percent work for the OSMRE. The rest are State and Tribal employees who implement programs approved by the Secretary of the Interior that are partially or fully funded by the OSMRE.

States permit and regulate 97 percent of the Nation's coal production. States and Tribes also abate well over 90 percent of the AML problems.

The major task for the OSMRE is to assure that States and Tribes succeed in their responsibilities by providing them stable, effective and high quality regulatory and AML frameworks. The OSMRE also provides the necessary oversight, technical assistance, funding, training, and technical tools to the States for their success.

Currently, 24 States have approved regulatory programs in place. There are 25 States and three Tribes that administer approved AML programs. The passage of the SMCRA Amendments of 2006 authorized the Secretary to approve Tribal regulatory programs.

Since enactment of SMCRA in 1977, the OSMRE has provided more than \$3 billion in grants to States and Tribes to clean up mine sites abandoned before passage of SMCRA. In the course of addressing health, safety and environmental hazards, more than 240,000 acres of Priority 1 and 2 abandoned mine sites have been reclaimed under the OSMRE's AML Program.

The authority to collect and distribute the mine reclamation fee was revised by the Tax Relief and Health Care Act of 2006, which included the Surface Mining Control and Reclamation Act Amendments of 2006 (Public Law 109-432). Among other things, these amendments extended the authority for fee collection through September 30, 2021, and changed the way that State and Tribal reclamation grants are funded, beginning in

FY 2008. State and Tribal grants, except for emergency grants under Section 410, are now mandatory spending derived from current AML fee collections and the general fund of the U.S. Treasury.

In FY 2008, \$274.3 million was made available through grants to States and Tribes to restore abandoned mine land, treat acid mine drainage and other projects. This is more than double the \$132.0 million that was available in FY 2007. Collection of AML fees on coal produced during FY 2007 was completed on November 30, 2007, and the OSMRE moved expeditiously to make funds available to States and Tribes by announcing the FY 2008 distribution on December 17, 2007. The very large increases in the distribution of mandatory appropriations beginning in FY 2008 will greatly expedite the restoration of abandoned mine lands, thereby improving public health and safety and preventing further environmental degradation. The OSMRE is in the process of revising its existing AML rules to be consistent with the SMCRA Amendments of 2006. The OSMRE is also continuing to address the operational changes needed to implement the amendments.

Fiscal Year 2009 Budget Request Overview

To address some of the issues I have just outlined, I would like to present some highlights of our FY 2009 budget proposal. The increases and decreases identified in our FY 2009 budget request are based upon the FY 2008 enacted levels and we will use those comparisons throughout this testimony. The OSMRE's FY 2009 budget request totals \$149.3 million in discretionary spending (or current appropriations) and supports 523

equivalent full-time positions. Compared with the FY 2008 enacted level of \$170.4 million, this represents a total decrease of \$21.1 million. This change is comprised of reductions in discretionary spending for State and Federal emergency projects and Federal operations of \$21.4 million; reductions for Federally-managed high-priority projects of \$0.7 million; reductions in State and Tribal regulatory grant funding of \$0.8 million; and reductions due to efficiencies in travel and contracts of \$0.5 million. The balance of the change from the FY 2008 enacted level reflects increases of \$1.2 million for fixed costs; \$0.5 million for audits of coal operators; \$0.5 million for increased services acquired through the Department's working capital fund; and other small program increases totaling \$0.1 million.

The OSMRE budget also contains an estimated \$479.1 million in mandatory spending (or permanent appropriations). Mandatory spending includes \$298.4 million for grants to States and Tribes and \$180.7 million for transfers to the United Mine Workers of America (UMWA) for specified health benefits plans. This mandatory spending is derived from both the AML and Treasury Funds. These estimates, as contained in our budget submission, are projections based on information current as of the end of the 2007 calendar year and subject to change since they are based on fee collections and requests from the UMWA.

FY 2009 Budget Request

The FY 2009 request will enable the OSMRE to provide sufficient financial support for 24 State regulatory programs. It will also enable the OSMRE to continue to administer

Federal regulatory programs in States that do not operate their own programs and on Federal and Tribal lands. The request eliminates project funding for State and Federal AML emergencies. However, the increased mandatory funding to States based on the SMCRA Amendments Act of 2006 will provide adequate monies to address AML emergencies in their States. In addition, the OSMRE will have carryover funding from prior years to fund these projects during FY 2009, and will work with the States in phasing out the Federal responsibility.

A portion of the funding appropriated to the OSMRE is passed on to the States and Tribes in the form of regulatory grants. For FY 2009, our request includes \$63.7 million for regulatory grants. These grants, along with Federal high priority project funding, and watershed cooperative agreement funding, account for 44 percent of the OSMRE's budget. The remaining portion of the budget provides funding for the OSMRE's internal operations, including the operation of Federal programs, technical training, and other technical assistance to the States and Tribes.

The OSMRE's overall FY 2009 request includes \$118.5 million for the Regulation and Technology appropriation. This request is basically level with the FY 2008 enacted budget. The request also includes \$30.8 million for the AML appropriation which is \$21.1 million below the FY 2008 enacted level.

The total requested funding for State and Tribal regulatory grants is \$63.7 million. The 2009 State and Tribal grant program maintains most of the robust funding Congress

provided in 2008; the FY 2009 request is \$7.3 million, or 13 percent, above FY 2007.

Also included within that amount, \$0.5 million will support an anticipated Tribal primacy program.

Additional increases include \$0.5 million for audits of coal operators in order to continue the audit program at the current level while OSMRE supports the Department of Justice litigation on the constitutionality of assessing abandoned coal mine reclamation fees on coal sold for exports; \$0.5 million for increased services acquired through the Department's working capital fund; \$0.1 million for support of the SMCRA amendments and information technology services; and fixed costs for increases of \$1.2 million.

The major decrease is \$21.4 million for State and Federal emergency projects and Federal reclamation operations. The increase in mandatory funding available to the States will allow the OSMRE to begin phasing out discretionary appropriation funding for AML emergency programs. Carryover funding will be available to cover State and Federal emergency projects during FY 2009 to ease the transition to the States during FY 2009. Therefore, the FY 2009 request includes the elimination of \$11.0 million for State emergency grants and \$9.0 million for Federally-managed emergencies. Reclamation program operations will be reduced by \$1.4 million reflecting savings in the overall staff management of Federal projects.

Federal High Priority Project Funding is requested at \$0.3 million, which is a reduction of \$0.7 million. Under the SMCRA Amendments Act of 2006, the State of Tennessee

qualifies for mandatory funding to implement its own Abandoned Mine Land program, including the reclamation of remaining high priority abandoned sites. Therefore, beginning in FY 2009, the OSMRE will no longer be responsible for high-priority reclamation in Tennessee with appropriated funds and will concentrate on the remaining States without AML programs.

Our FY 2009 budget is a fiscally-responsible proposal that enables the OSMRE to implement its mission and goals effectively and efficiently.

Government-wide Management Reforms

This budget supports the Administration's Government-wide management reforms by integrating budget and performance measures; improving capital asset planning and control; improving strategic management of human capital; improving financial performance; and expanding electronic government. The OSMRE's budget proposals have integrated strategic goals and associated measures with the OSMRE's budget structure for the past several fiscal years. Our FY 2009 proposal continues this integration and incorporates the Department's Strategic Plan for FY 2007-2012.

The OSMRE has also completed its first year of implementation of a new financial system, the Financial Business and Management System (FBMS). Furthermore, the OSMRE continues to refine its workforce plan to help strategically manage its human resources. Finally, because of the OSMRE's expanded electronic government initiatives, greater opportunities exist for citizens to access the OSMRE provided information.

I thank the Subcommittee for providing this opportunity to present the OSMRE's FY 2009 budget request, and I look forward to answering your questions.