

STATEMENT OF
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BEFORE THE

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

ON THE
FISCAL YEAR 2011 BUDGET REQUEST

MARCH 4, 2010

Mr. Chairman and Members of the Subcommittee, thank you for inviting me to testify on the Fiscal Year 2011 budget request for the Office of Surface Mining Reclamation and Enforcement (OSM).

The Surface Mining Control and Reclamation Act of 1977 (SMCRA) established the Office of Surface Mining Reclamation and Enforcement 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 remaining from two centuries of unregulated mining. These tasks are vital to the public health and safety and the environmental well-being of the United States.

SMCRA recognized the need to ensure that the Nation strikes a balance between the protection of the environment and agricultural productivity and the Nation's need for energy. Nearly thirty-three years after the passage of SMCRA, coal remains an important fuel source for our country, providing about half of our Nation's electricity. In the continued drive to decrease our Nation's dependence on foreign oil, coal represents an abundant domestic supply of energy that will last for many decades.

While new energy frontiers are being explored, the coal supply (conventional coal production) is essential to the Nation's energy requirements. OSM is committed to carrying out the requirements of SMCRA in cooperation with States and Tribes. Of the almost 2,400 employees involved in carrying out these two responsibilities on a daily basis, less than 25 percent are employed by OSM. The rest are State and Tribal employees who implement programs approved by the Secretary of the Interior that are partially or fully funded through OSM. 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 OSM is to ensure that States and Tribes successfully address coal mining activities by ensuring that they have effective and high-quality regulatory and AML frameworks. Importantly, OSM also provides oversight, technical assistance, funding, training, and technical tools to the States to support their regulatory and reclamation programs.

Currently, 24 States have approved regulatory programs in place pursuant to Title V of SMCRA. There are 25 States and three Tribes that administer approved AML programs pursuant to Title IV of SMCRA.

Since enactment of SMCRA in 1977, OSM 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, about 255,000 acres of Priority 1 and 2 abandoned mine sites have been reclaimed under OSM's AML Program, though many sites still remain.

The authority to collect and distribute the AML 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 are now mandatory and are derived from current AML fee collections and the general fund of the U.S. Treasury.

The 2006 SMCRA Amendments dramatically increased funding (\$132.0 million in FY 2007 to \$369.1 million in FY 2010) and provided a new source of funding to States and Tribes that certified they have completed reclamation of their abandoned coal mines. In order to focus AML payments on the highest priority coal issues, the 2011 budget proposes to terminate mandatory payments to certified States and Tribes. Because these payments can be used for any purpose approved by the State legislatures or Tribal councils, they are not all being used solely to reclaim priority coal problems. Similarly, the proposal will require that payments to noncertified States are only used for high-priority coal problems. In order to address coal issues that develop or are discovered after certification, this proposal will allocate \$10 million annually to the Federal High Priority Program. This program addresses priority 1 and 2 coal problems on a priority basis, in States without AML programs, and would include certified States and Tribes. The mandatory distribution to the United Mine Workers of America (UMWA) health benefit plans will not be affected by this proposal.

Fiscal Year 2011 Budget Request Overview

The FY 2011 budget request for OSM totals \$146.1 million in discretionary spending and supports 515 equivalent full-time positions. Compared with the FY 2010 enacted level of \$162.8 million, this represents a decrease of \$16.7 million. This budget request is composed of reductions in discretionary spending for State regulatory program grants of \$11.0 million, for State and Federal emergency grants and projects of \$3.5 million, for Federal high-priority projects of \$1.0 million, and for audit activities of \$0.5 million. The balance of the change from the FY 2010 enacted level reflects decreases of \$0.7 million for management efficiencies.

OSM's budget also contains an estimated \$459.5 million in permanent appropriations. This spending includes \$249.5 million for grants to non-certified States and Tribes (those with remaining abandoned coal mine problems); \$10 million for the Federal High Priority Program; and \$200.0 million for the UMWA for specified health benefits plans. This spending is derived from both the AML and U.S. Treasury Funds. The estimates, as contained in the budget submission, are projections based on information current as of the end of the 2009 calendar year and subject to change since they are based on fee collections and requests from the UMWA.

Regulation and Technology Appropriation

OSM's overall FY 2011 request includes \$115.8 million for the Regulation and Technology appropriation, \$11.5 million below the FY 2010 enacted level. This includes

reductions for regulatory grants and other efficiency gains. The FY 2011 budget request will enable OSM to provide financial support to the 24 States with approved regulatory programs. It will also enable OSM to continue to administer Federal regulatory programs in States that do not operate their own programs and on Federal and Tribal lands.

A large portion of the regulatory and technology funding appropriated to OSM is passed on to the States and Tribes in the form of regulatory grants. These grants account for 52 percent of this proposed appropriation. For FY 2011, the request includes \$60.3 million for regulatory grants, \$11.7 below the FY 2011 grant requests from States and Tribes. States are encouraged to offset the decrease in Federal funding by increasing cost recovery fees from the coal industry. The decrease is proposed, in part, to fulfill the Administration's commitment to reduce subsidies to fossil-fuel industries.

The remaining portion of the budget provides funding for OSM's regulatory operations on Federal and Indian lands, oversight of State regulatory programs, technical training and other technical assistance to the States and Tribes as well as administrative and executive activities.

Abandoned Mine Reclamation Fund Appropriation

The request also includes \$30.4 million for the AML appropriation, which is \$5.2 million below the FY 2010 enacted level. The budget supports OSM's reclamation operations and program evaluations, watershed cooperative agreement projects, fee compliance and audits, technical training and other technical assistance to the States and Tribes as well as administrative and executive activities. Reductions are proposed for emergencies, Federal AML projects, and other efficiency gains.

Because the States and Tribes received increased mandatory AML grants through the 2006 SMCRA Amendments, they can now take responsibility for emergency AML issues with these funds. Therefore, the FY 2011 request includes reductions of \$1.5 million for State emergency grants and \$2.0 million for Federal emergency projects. OSM will work with the States to ensure a smooth transition.

Recognizing that high-priority coal problems may develop or be discovered after certification, the proposal to restructure AML mandatory payments includes \$10 million each year for Federal high priority coal projects. This would include those in certified States and Tribes. Therefore, the FY 2011 request eliminates \$1.0 million in discretionary appropriations for this Program.

The FY 2011 budget request does not include fixed costs. It is a fiscally responsible proposal.

Permanent Appropriation

OSM will continue to distribute mandatory funding to States and Tribes under the AML program. The amount distributed in FY 2009 was \$298.1 million, and will be \$369.1 million in FY 2010. The budget assumes \$259.5 million will be distributed in 2011

under the legislative proposal to restructure AML payments. That includes \$10 million for the Federal High Priority Program. This proposal will reduce Federal spending by an estimated \$115.0 million in 2011 and \$1.2 billion over 10 years while ensuring that the highest priority coal mines are addressed.

Initiatives

OSM's activities and related budget support the Presidential and Secretarial initiatives for responsible production of coal through the protection, preservation, and restoration of mined lands; restoration of lands left unreclaimed; and provision of opportunities for youth.

It is essential to have properly mined coal and to see that land is reclaimed in accordance with post-mining land use plans established during the permitting process. State permitting actions and inspections of mine sites are among the most important ways to determine if the law is being implemented and to ensure a safe environment to both the public and land health during mining. Consistent with the intent of SMCRA that States take the lead in regulating coal mining, in FY 2009, States completed 48,525 partial and 30,228 complete inspections for a total of 78,753 inspections. OSM conducted 1,469 oversight inspections in primacy States during that year. The projected FY 2010 and 2011 oversight inspection workload may be adjusted as OSM's enhanced oversight activities are implemented. The adjustments will depend on the program areas, the presence or absence of problems, input from the public, and the terms of the performance agreements in each State.

OSM is working to engage 150 individuals age 25 and under, in 2010 and 2011 either through temporary positions with the Bureau or a work experience in conjunction with a partnering organization. This is a 35 percent increase over our FY 2009 level. To achieve this goal, the Bureau will seek ways to expand opportunities for youth engagement through ongoing activities and partnerships.

Conclusion

The FY 2011 budget is a fiscally responsible request that lowers the cost to the American taxpayer.

Thank you for the opportunity to appear before the Committee today and testify on OSM's FY 2011 budget request. Please be advised that due to my previous position with the Commonwealth of Pennsylvania, I have recused myself from matters pertaining to Pennsylvania that would present a conflict or an appearance of impropriety. The Committee questions that fall within the scope of my recusal I will refer to my deputy, Glenda Owens, who is here today.