

**OFFICE OF SURFACE MINING
RECLAMATION AND ENFORCEMENT**

**Annual Evaluation Report
For the
Regulatory Program
Administered by the State
Of**



UTAH



**For
Evaluation Year 2012
(July 1, 2011, through June 30, 2012)**

Prepared by

**Denver Field Division
(September 2012)**



EXECUTIVE SUMMARY

Utah's Regulatory Program Evaluation Year 2012

The following summary captures the highlights of the EY 2012 Annual Evaluation Report for the Utah Regulatory Program and the Division of Oil, Gas and Mining (DOGM).

Overview of Public Participation and Outreach Efforts

The Utah coal regulatory program continued to provide increased environmental improvement for coal field citizens during Evaluation Year 2012 (July 1, 2011 through June 30, 2012), and strives to effectively achieve or exceed the regulatory and reclamation goals of SMCRA. Although DOGM experienced some staff turnover during the past year due to retirement and resignations, DOGM has filled most positions and staff continues to gain experience and develop expertise. DOGM performed outreach to citizens and communities, operators, and stakeholders by providing opportunities to discuss issues, by participating in programs that help to educate the public about mining, and by coordinating with other State and Federal agencies involved in coal. DOGM sent outreach letters to coal mining stakeholders (State, Federal, and local governmental agencies, coal mine permittees, environmental groups, consulting firms, and coal mining trade groups), soliciting input for performance evaluation topics as well as any questions or comments on previous oversight reports or the OSM/DOGGM oversight process.

Accomplishments

During EY 2012, DOGM was able to complete the contract for additional reclamation at the White Oak mine, which is a bond forfeiture site that has undergone various stages of reclamation that was completed in 2004. DOGM is progressing in its efforts to institute electronic permitting. The Skyline mine has contributed to this endeavor by participating as a “test mine” for submittal of electronic permit amendments. DOGM has completed a rewrite of the Ownership and Control sections of the coal rules at OSM's request. DOGM has made significant improvements in the timeliness of permitting actions.

DOGGM continues to administer an effective Title V reclamation program. OSM developed the Reclamation Status Table (appended to this report) to better track reclamation in the state and on a region-wide basis. DOGM compiles annual reclamation data from mine operators and reports it to OSM in this format. DOGM and OSM now have an accurate picture of coal mine disturbance and reclamation in Utah. There are currently 3,349 acres disturbed by coal mining and 3,022 of those acres consist of long-term facilities and active mining areas that are not yet subject to contemporaneous reclamation requirements. This year, DOGM approved the release of 0.6 acres under Phase II and III bond release. Only 0.24 acres were bonded and disturbed during the evaluation year. Although by a slight margin, bond release outpaced reclamation during this evaluation year.

Off-site Impacts

The OSM oversight data for the Utah coal program indicates that DOGM is administering a regulatory program where active mining sites operate, with few exceptions, in compliance with the approved program requirements. Two off-site impacts were identified during this evaluation year. One was determined to be a minor hydrologic impact to a land resource, while the other was determined to be a minor hydrologic impact to a water resource.

General Oversight and Topic Specific Reviews

The EY 2012 National Measurement Element reviews included Protection of Threatened and Endangered Species (Reclamation Success), Effluent Water Discharge Monitoring and Maintenance (Prevention of Off-site Impacts), and Applicant/Violator System Maintenance and Determinations (Customer Service). The Protection of Threatened and Endangered (T&E) Species evaluation found that DOGM is ensuring reclamation success by requiring mining operators to follow Protection and Enhancement Plans to minimize disturbances and adverse impacts to T&E species when species are identified within mine permit areas. The Effluent Water Discharge Monitoring and Maintenance evaluation concluded that all but two evaluated sites were monitoring all required water quality parameters, all evaluated sites submit water quality monitoring data quarterly, noncompliant samples are reported as required (with the exception of one instance which has been corrected), all equipment, structures, and other devices used in conjunction with water sampling activities are properly installed and maintained, and none of the evaluated sites had noncompliant discharges that warranted immediate implementation of measures necessary to comply with water quality criteria or warning anyone whose health and safety was in jeopardy. The Applicant/Violator System (AVS) Maintenance and Determinations evaluation found that DOGM is providing effective customer service by performing required AVS operations in accordance with SMCRA §510(c).

OSM also conducted an independent technical review of DOGM's Cumulative Hydrologic Impact Assessment (CHIA) for the Coal Hollow Mine Project. The purpose of the evaluation was to determine compliance with State program rules, ensure that the CHIA findings required for approval of the new mining permit were made, and that documentation supporting those findings was included in the CHIA. OSM's review found that DOGM's CHIA included the necessary evaluation of the effects of current and anticipated mining on surface and groundwater resources, provided a material damage statement, and that DOGM made all the necessary findings required for a CHIA based on the requirements in the Utah Administrative Code. DOGM continues to engage OSM expertise to ensure consistency with guidance related to hydrologic assessment and protection approaches and techniques.

Regulatory Program Issues

The most significant pending issue for the Utah Program involves the process of increasing the bond at the Crandall Canyon Mine as a result of a TDN issued by OSM in 2009. OSM views the current bond held for the Crandall Canyon mine as inadequate to cover the anticipated costs of long-term water treatment and reclamation. There is still ongoing debate within the State regarding the need for long term bond. This issue is described in detail under VII Regulatory Program Issues.

OSM Assistance

For the one-year grant period beginning July 1, 2011, Utah was originally awarded the full amount, or 100%, of their request for administration and enforcement but de-obligated \$150,000 for a total grant amount of \$1,825,472. For the three-year grant period beginning July 1, 2011, OSM provided 100% funding for the Utah AML program in the amount of \$4,204,645. DOGM received an additional \$40,000 grant to fund an Underground Mine Mapping project. OSM also provided DOGM with free-of-charge technical training courses, use of technical equipment, and library reference materials upon request.

TABLE OF CONTENTS

- I. Introduction
- II. Overview of the Utah Coal Mining Industry
- III. Overview of Public Participation in the Utah Program
 - A. Evaluation process
 - B. Utah program
- IV. Major Accomplishments and Innovations in the Utah Program
 - A. Accomplishments
 - B. Innovations
- V. Success in Achieving the Purposes of SMCRA
 - A. Off-site Impacts
 - B. Reclamation Success
 - C. Customer Service
- VI. OSM General Oversight Topic Reviews
 - A. Independent OSM Review of Coal Hollow Mine Permit Approval Document
 - B. Reclamation Success – Protection of Threatened and Endangered Species
 - C. Prevention of Off-site Impacts – Effluent Water Discharge Monitoring and Maintenance
 - D. Customer Service – Applicant/Violator System Maintenance and Determinations; Fourth Annual Division-wide Stakeholder Satisfaction Survey
- VII. Regulatory Program Issues
 - A. Crandall Canyon Ten-Day Notice
 - B. Horse Canyon Mine – Lila Canyon Extension
 - C. Coal Hollow Mine (Alton Coal Development, LLC)
 - D. Kinney #2 Mine
 - E. Bear Canyon Mine
 - F. State Program Amendments
- VIII. OSM Assistance
 - A. Grants
 - B. Education/Outreach/Tools
 - C. Technical Assistance

Appendix 1 Summary of Core Data to Characterize the Utah Program

Appendix 2 Action Plan #UT-2012-001

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 the state and tribal regulatory programs that have been approved by the Secretary of the Interior as meeting the minimum standards specified by SMCRA. This report contains summary information regarding the Utah Program and the effectiveness of the Utah Program in meeting the applicable purposes of SMCRA as specified in section 102. This report covers the period of July 1, 2011, through June 30, 2012. Detailed background information and comprehensive reports for the program elements evaluated during the period are available for review and copying at the OSM's Denver Field Division, 1999 Broadway, Suite 3320, Denver Colorado, 80202. Contact Kenneth Walker, Chief, DFD, at kwalker@osmre.gov or (303) 293-5012.

The following list of acronyms is used in this report:

AML	Abandoned Mine Land
ASLM	Assistant Secretary of Land and Minerals Management
BLM	Bureau of Land Management
BOGM	Utah Board of Oil, Gas, and Mining
CFR	Code of Federal Regulations
DFD	Denver Field Division
DOGM	Division of Oil, Gas and Mining
DWRi	Utah Division of Water Rights
EY	Evaluation Year
MOU	Memorandum of Understanding
MRP	Mining and Reclamation Plan
MSHA	Mine Safety and Health Administration
NEPA	National Environmental Policy Act
NOV	Notice of Violation
NTTP	National Technical Training Program
OSM	Office of Surface Mining Reclamation and Enforcement
SITLA	State of Utah School and Institutional Trust Lands Administration
SMCRA	Surface Mining Control and Reclamation Act of 1977
SUWA	Southern Utah Wilderness Alliance
TDN	Ten-Day Notice
TMD	Technology Management Division
TIPS	Technical Innovation and Professional Services Program
UDWR	Utah Division of Wildlife Resources
UPDES	Utah Pollution Discharge Elimination System
USACE	United States Army Corps of Engineers
USFWS	United States Fish and Wildlife Service
USFS	United States Forest Service
WR	OSM's Western Regional Office

II. Overview of the Utah Coal Mining Industry

Coal is found beneath approximately 18% of the state of Utah, but only 4% is considered mineable based on economic viability at this time. The demonstrated coal reserve base ranges from 5.4 to 14 billion tons. The Federal government holds most of Utah's coal resources. Utah coal fields are shown on the figure below (Utah Geological Survey web site, Coal & Coalbed Methane at <http://geology.utah.gov>, August 2006). In 2012, the Wasatch Plateau, Book Cliffs, Emery, and Alton coalfields were being actively mined.



Most of the coal is bituminous and is of Cretaceous age. The Btu value is high compared to most other western States. Sulfur content ranges from low to medium in the more important coal fields, and is comparatively elevated in the Alton coalfield.

Coal production steadily increased from the early 1970's and peaked in 1996 at 28.9 million tons. Production in calendar year 2011 was approximately 20.8 million tons (Table 1). The majority of the coal production is produced by underground mining operations. In addition, Utah removed and reprocessed 564,315 tons of no value material in 2011 (OSM no value determinations for coal waste tonnage exempts permittees from the required SMCRA (abandoned mine lands) severance tax per ton of coal (waste) mined).

As of June 30, 2012, Utah had 20 active or temporarily inactive operations, 10 inactive operations, and 6 abandoned sites that have disturbed a total of 3,423 acres. Each of these 36 sites is an inspectable unit (Table 2). Of the 30 non-abandoned operations, 11 were underground mines that use the longwall mining method (of these 6 are currently producing coal), 10 were underground mines that use the room-and-pillar mining method (of these 2 are currently producing coal), 1 was a private surface mining operation (currently producing), 2 were surface mining operations that extract coal from an underground mine refuse pile (both currently producing), and 6 were coal preparation plants/loadout facilities. As of June 30, 2012, Utah had also reclaimed 470 acres of disturbance for the 6 abandoned sites. Utah's coal mining industry has a direct, significant impact on the local economies where mining occurs. Coal mining currently occurs in Carbon, Emery, Kane, and Sevier Counties. The Utah Department of Workforce Services reports that as of November 2011 mining companies (except oil and gas), including coal mining companies, employed on average 1,087 and 554 persons in Carbon and Emery Counties, respectively. Kane County employed 5 people and Sevier County employed 570 persons as of September 2011. In Carbon County, coal mining companies represented two of the six largest employers with one being the third largest employer. In Emery County, two out of the six largest employers were coal mining companies with one being the third largest

employer. In Sevier County, a coal mining company was the second largest employer. Overall, employment remained relatively stable in Carbon, Emery, and Sevier Counties, and it is expected to increase significantly in Kane County due to DOGM's approval of the Coal Hollow Mine permit. See <http://jobs.utah.gov/jsp/wi/utalmis/default.do> for more information on coal related employment in Utah.

The climate of the Wasatch Plateau and Book Cliffs Coal Fields is characterized by hot, dry summers, the late-summer (so-called *monsoon*) rains, and cold, relatively moist winters. Normal precipitation varies from six inches in the lower valleys to more than 40 inches on some high plateaus. The growing season ranges from five months in some valleys to only 2½ months in mountainous regions.

III. Overview of Public Participation in the Utah Program

A. Evaluation Process

OSM's WR-DFD and the Utah Department of Natural Resources' DOGM formed an Evaluation Team (the Team) to conduct annual evaluations of Utah's Coal Regulatory Program. The Team evaluates DOGM's effectiveness in ensuring that coal mining and reclamation is successful in preventing offsite impacts and providing quality service to its customers and makes recommendations for improving the administration, implementation, and maintenance of the Program. The Team structure is comprised of three to six core members each from the WR and DOGM. The Team cooperatively solicits public participation, conducts joint inspections, selects evaluation topics, and reports, discusses, and tracks off-site impacts. This evaluation method fosters a shared commitment to the implementation of SMCRA.

Each year, the Team solicits comments or suggestions from persons and groups who may have an interest in coal mining and, specifically, an interest in the oversight process. On February 23, 2011, the Team mailed outreach letters to coal mining stakeholders (State, Federal, and local governmental agencies, coal mine permittees, environmental groups, consulting firms, and coal mining trade groups), soliciting input for topics to evaluate, as well as any questions or comments on previous oversight reports or the OSM/DOGM oversight process. In addition, DOGM posted a notice on its web page requesting suggestions for oversight topics from the public, industry, and environmental groups. Comments were received from the Mine Safety and Health Administration (MSHA) regarding oil and gas drilling permits placed in the vicinity of underground mines that may impact the health and safety of the miners. MSHA requested that DOGM notify the MSHA District Office of any such permits on mine properties to ensure the health and safety of miners are being addressed by the operating companies. MSHA also expressed a concern regarding the need to coordinate transferring "orphan" impoundments from mine properties to either OSM or the primacy state. MSHA noted that while this is not an issue in Utah, it has become a point of contention in other areas of the country. The Team has responded to these comments. Although the comments did not result in a special focus evaluation this year, the Team always appreciates stakeholder input.

The Team has made copies of the EY 2012 Performance Agreement and Annual Evaluation Summary Report available on both the OSM internet site at www.osmre.gov and the DOGM site

at <http://www.ogm.utah.gov>. Additional data used by OSM in its evaluation of Utah's Program is available for review in the evaluation files maintained at the WR-DFD. Contact Kenneth Walker, Chief, DFD, at kwalker@osmre.gov or (303) 293-5012.

B. Utah Program

The approved SMCRA program for the State of Utah is administered by DOGM. The BOGM is the policy making body for DOGM. The BOGM consists of seven members knowledgeable in oil, gas, mining, environmental, geology, and royalty matters. The BOGM convened eleven hearings during this evaluation year. The meetings were all held in Salt Lake City, except for one that was held in Vernal, Uintah County, one that was held in St. George, Washington County, and one that was held in Richfield, Sevier County.

The mission of the Utah Coal Program at the Division of Oil, Gas, and Mining is to regulate exploration for, and development of, coal in the State of Utah which:

- Supports the existence of a viable coal mining industry to meet the nation's energy needs; and
- Implements standards that safeguard the environment and protect public health and safety, and achieves the successful reclamation of land affected by coal mining activities.

IV. Major Accomplishments and Innovations in the Utah Program

A. Accomplishments

- Reclamation of the White Oak Mine: The White Oak mine is a bond forfeiture site that has undergone various stages of reclamation, the last being done in 2004. There was limited success and additional work was necessary in order to stabilize the site, restore the landscape to a post-mining land use comparable to pre-mining conditions, and satisfy the land owner's expectations. The Division was able to develop a scope of work and secure a contract to complete additional reclamation at the site during EY 2011 and EY2012. This included establishing terraces on steep slopes, backfilling sink holes, reworking and stabilizing the stream channel, placing bio-solids on much of the site and reseeded and planting vegetation. Much of this work was completed in the fall of 2010 and then, after sitting over the winter, additional work was performed in the summer and fall of 2011. This additional work included stabilizing two sink holes, installing drop structures in the stream channel, planting containerized stock and tublings, and supplemental seeding and mulching. The reclamation work, all completed with bond forfeiture money, has greatly improved the conditions at the site as well as improved the landowner's satisfaction.
- DOGM has completed a rewrite of the Ownership and Control sections of the coal rules. DOGM completed the state rulemaking process and submitted a formal program amendment on June 25, 2012.

- DOGM successfully hosted a NTTP Permit Finding course on January 18-19, 2012. The class consisted of 14 participants and 3 instructors.
- DOGM continues to conduct a Blaster Certification Training. During the week of January 23rd through the 27th, 2012, the Utah Division of Oil, Gas and Mining conducted the annual Utah coal mine surface blaster certification class. Four new applicants were certified as State of Utah coal mine surface blasters. Eight previously certified individuals renewed their certifications by successfully passing the re-certification examination on January 27, 2012.
- DOGM continued to perform outreach to the public, operators, agencies, and stakeholders by providing opportunities to discuss issue of concerns. DOGM representatives meet with Emery County water user associations, Emery County Coal Operators, DWRi, USFS, BLM, Emery County Commission and other interested parties semi-annually to discuss water issues relating to coal mining in the Emery County area. The group discusses cumulative hydrologic impacts, DOGM's water monitoring database, potential water related impacts from coal mining and general issues related to coal mining. The water users provide updates on water availability and system performance. In addition to general updates, this past year included presentations on the Crandall Canyon Mine water chemistry and treatment of the mine discharge; possible mitigation of impacts of mining at the North Water area above the SUFCO Mine; the positions of longwall panels relative to surface water sources at the SUFCO, Skyline, and Deer Creek mines; and a status update of the Bear Canyon Mine.
- DOGM performed outreach to citizens and communities by participating in programs that help to educate the public about mining and reclamation. The BOGM sponsors an Earth Day Awards Program to recognize operators or individuals for going beyond what is required by regulation to protect the environment while providing society with essential natural resources. The Board presented 2012 Earth Day Awards to five companies. Receiving the awards were Canyon Fuel Company for its efforts in reducing the disturbance associated with the Winter Quarters ventilation portal, Simplot Phosphates, LLC for stream stabilization of Big Brush Creek, Questar Pipeline for visual mitigation on the Green River crossing, Anadarko Petroleum for directional drilling program to reduce the number of well pads and Western Clay Company for voluntary reclamation of a pre-law pit. The Division maintains information on their web site at <http://www.ogm.utah.gov/>. Information includes: Water Quality Database, announcements of pending rules, mine information, contact information, links, technical information, amendment tracking information, and access to an FTP site for authorized users.
- DOGM provides leadership and outreach in the coordination with other State and Federal agencies involved in coal resource recovery.
 - DOGM participates in monthly interagency conference calls to coordinate permitting issues. Agencies who participate in these calls include the BLM, SITLA, OSM, USFWS, DWRi, UDWR, USACE and the USFS. Utah's

cooperative agreement is somewhat unique in that it requires the state to obtain federal agency concurrence rather than OSM performing this coordination effort as in other Federal lands states.

- The DOGM and the Utah Department of Environmental Quality meet semiannually to review their existing MOU. The discussions include UPDES and other water related compliance issues concerning coal mines.
- DOGM continues to make improvements in the timeliness of permitting actions. The timeliness of actions is measured on a monthly basis and reported quarterly on the Governor's scorecard. DOGM has improved timeliness of permit review from near 70% to above 90% and has operated at 100% timeliness for a couple of quarters.
- DOGM maintains a database and data processing for electronic permitting. Elements of the database include permit review tracking, automated inspection reports, document indexing, and annotation of digital photographs.
 - DOGM is converting files and mining plans from paper to electronic PDF files stored in the database. The electronic database provides DOGM staff and the public with easy access to those files. A secure access portal is available to view mine files for other agencies, companies, and the public (<http://ogm.utah.gov/fs/filesbypermitinfo.php>). Access is also available to the general public but is more restricted.
 - Inspections and compliance information are tracked in the database;
 - Staff permitting tasks are assigned, scheduled and tracked;
 - Mine operators can track submittals, permits, and amendments status online; and
 - A relational database of people and companies that associates them with each other, permits, projects and other activities has been created and used for notifications, mailing lists, inspection reports, fees and other DOGM related work.
 - DOGM continues to improve its processes for electronic permitting and has worked closely with the Skyline Mine to get its Mining and Reclamation Plan completely into an electronic format. Skyline has led the way with the submittal of several amendments to the Division in a paperless format. DOGM anticipates that other mines will participate in electronic permitting as the initial systems and processes continue to be refined.

B. Innovations

The Division continues to function with a reduced staff of 17 FTE's and a continued reduction in State General funds and Federal funding. New employees are trained and are quickly able to contribute to the efforts of the coal regulatory program. The Division continues to improve work

processes and electronic information transfer in order to manage the steady workload. In spite of these challenges, DOGM's permitting timeliness has improved to 94% for the average of EY12 and EY11 versus 71% for the EY10 and EY09 average.

V. Success in Achieving the Purposes of SMCRA

The Team evaluates the number and extent of observed off-site impacts, the number and percentage of inspectable units free of off-site impacts, the number of acres that have been mined and reclaimed and which meet the bond release requirements and have been released for the various phases of reclamation, and the effectiveness of customer service provided by the State. Individual topic reports that provide additional details on how the following evaluations and measurements were conducted are available on the OSM internet site at www.osmre.gov and in the WR-DFD Office at 1999 Broadway, Suite 3320, Denver Colorado, 80202. Contact Kenneth Walker, Chief, DFD, at kwalker@osmre.gov or (303) 293-5012.

In order to validate the credibility of State Regulatory programs and enhance Federal oversight improvement efforts, OSM announced in November of 2009 that it would immediately increase the number of oversight inspections. OSM also began conducting independent unannounced oversight inspections. OSM scheduled and conducted these inspections at independently selected mine sites. Independent inspections provide observations and insight into the effectiveness of State regulatory programs by evaluating the current compliance status of mines in each state.

The DFD conducted three joint complete, eleven joint partial, and no bond release inspections of coal mining operations in Utah during EY 2012, in addition to one independent unannounced complete inspection. No enforcement actions were taken by DFD as a result of the one independent unannounced complete inspection that was conducted, and site conditions indicated that DOGM is effectively implementing and enforcing its program. During EY 2012, DOGM issued seven NOV's while the DFD did not issue any enforcement actions or TDN's.

A. Off-site Impacts

An "off-site impact" is anything resulting from a surface coal mining and reclamation activity or operation that causes a negative effect on resources (people, land, water, structures) outside the area authorized by the permit for conducting mining and reclamation activities.

Table 5 shows the number and type of off-site impacts that were observed and documented as having occurred during EY 2012, both for permitted sites and bond forfeiture sites.

Sites Where Reclamation Performance Bonds Have Not Been Forfeited

The Team assessed whether off-site impacts had occurred on each of the 30 non-forfeited mine sites that existed at some time during the evaluation period. The Team did so through the following 337 on-the-ground observations: one independent unannounced complete OSM inspection; 126 DOGM complete inspections, including three OSM and DOGM joint complete inspections; 205 DOGM partial inspections, including eleven OSM and DOGM joint partial

inspections, (Tables 10 and 13). OSM made observations for special focus evaluations during five of the joint partial inspections and one of the joint complete inspections. These observations are discussed in section VI below. Based on the above and DFD's monthly review of all DOGM inspection reports and enforcement actions, the Team finds that DOGM has met or exceeded the required inspection frequency on all inspectable units.

For EY 2012, the Team documented one minor hydrologic off-site impact to a land resource and one minor hydrologic off-site impact to a water resource resulting from active coal mining operations (Table 5). Ninety-four percent of Utah mines were free of off-site impacts. In comparison, the Team found 96, 93, 93, and 87 percent of the mines free of off-site impacts in EY's 2008, 2009, 2010, and 2011, respectively.

Sites Where Reclamation Performance Bonds Have Been Forfeited

Since OSM approved the Utah permanent regulatory program in 1981, DOGM has forfeited reclamation performance bonds for six mines. (The White Oak Mines #1 and #2 are counted with the bond forfeiture sites because the Division issued the determination to forfeit; however, bond forfeiture monies were never received. Monies were obtained from the Loadstar Bankruptcy Trustee, Frontier Insurance, and a "General Settlement Fund" outside of the Lodestar bankruptcy estate.)

During EY 2012, DOGM conducted eleven complete and seven partial inspections on the six forfeited sites (see Table 10). It did not observe any off-site impacts. The bottom half of Table 5 shows that 100% of the bond forfeiture sites were free of off-site impacts. The Team previously found that 83% of these mines were free of off-site impacts in EY 2008, 86% in EY 2009, 100% in EY 2010, and 100% in EY 2011.

B. Reclamation Success

Sites Where Reclamation Performance Bonds Have Not Been Forfeited

For operations where reclamation performance bonds have not been forfeited, the Team used disturbed acreage that had received bond release as a measure of reclamation success.

Historically, the amount of bond release acreage in Utah is very low due to the following two factors:

- Most of the permitted operations are underground mines (Table 2). Regulated surface facilities associated with underground mining operations typically remain active during the entire life of the operation. Although the surface disturbances for Utah mines are relatively small (2808 acres for EY 2012), there are 3,277 permitted acres for the 30 non-forfeited mines, or an average of 91.03 permitted acres per mine in Utah. While a 2007 legislative coal audit pointed out that the permit area may be defined as just the disturbed area, by rule the operator has the option to include what they would like, within reason, in their permit area. Several, but not all, operators reduced their permit areas by excluding shadow areas above underground mine workings. For this reason, we exclude shadow area acreages and only report areas permitted for disturbance in order to report underground mine permit

areas in a consistent manner.

- The bond liability period is a minimum of 10 years on sites requiring the establishment of vegetation.

Table 6 shows the permit acreage where DOGM partially released (Phases I and II) or totally released (Phase III) bonds during the evaluation year. For the 2808 acres of total permitted disturbance that had not yet received final (Phase III) bond release at the beginning of the evaluation year, DOGM released Phase II and III on 0.6 acres at the Deer Creek Mine. An additional 0.24 acres were bonded and disturbed during the evaluation year at the West Ridge Mine thus maintaining the overall total number of disturbed acres at 2808 as of June 30, 2012.

A review of data in the EY12 Utah Reclamation Status Table (see Appendix 1) indicates that 3,022 acres consist of long-term facilities and active mining areas that are not yet subject to contemporaneous reclamation requirements during any given evaluation year, and thus not eligible for any phase of bond release. Since the Utah Permanent Regulatory Program was approved in January of 1981, 1,166 of 3,725 acres on active, temporarily inactive, inactive, final bond released, and bond forfeiture sites has been backfilled, regraded, re-topsoiled and seeded. In addition, DOGM has granted Phase III bond release on a total of 375.84 acres. Taking into account those acreages temporarily excluded from contemporaneous reclamation requirements, 53.46% (375.84 of 703) of mining related disturbance has been successfully reclaimed. OSM concludes that reclamation of mined land in Utah is successful based on the Team's review of the EY12 Utah Reclamation Status Table, oversight inspections, and DOGM's routine monthly inspections that include reclamation success evaluations of the reclaimed lands.

Sites Where Reclamation Performance Bonds Have Been Forfeited

As shown in Table 7, DOGM has completed initial reclamation on all six bond forfeiture sites. Reclamation may be adequate at these sites for DOGM to terminate jurisdiction, but DOGM has not yet developed procedures and policy to do so.

C. Customer Service

For EY 2012, DOGM and OSM jointly conducted a customer service evaluation to determine whether DOGM is effectively implementing its program by entering required information into the Applicant Violator System (AVS) in a timely, complete, and accurate manner during the period of July 1, 2011, through June 30, 2012. The review focused on four areas including entry of issued permits; entry of State violations; requests for evaluations for eligibility prior to permit issuance; and review of applicant and operator information. For a discussion of this evaluation see section VI below. In addition, DOGM conducted its fourth annual survey of customer satisfaction to evaluate performance at the Division and Program level and to foster improved customer service in the future. The results of this survey are discussed under section VI below.

VI. OSM General Oversight Topic Reviews

WR-DFD conducted an independent technical review of DOGM's Cumulative Hydrologic Impact

Assessment (CHIA) for a recently approved surface coal mining permit to determine compliance with State program rules as a regional priority oversight evaluation topic for EY 2012. Additionally, each year OSM and DOGM evaluate topics to determine whether DOGM is effective in ensuring reclamation success, preventing off-site impacts, and ensuring effective customer service. For EY 2012, the Team conducted three general evaluation topic reviews. Results of the independent technical permit review and the general evaluation topic reviews are available at the WR-DFD Office.

A. Independent OSM Review of DOGM's CHIA for the Coal Hollow Mine

DFD conducted an independent technical review of DOGM's Cumulative Hydrologic Impact Assessment (CHIA) for the Coal Hollow Mine Project. The purpose of the evaluation was to determine compliance with State program rules, ensure that the CHIA findings required for approval of the new mining permit were made, and that documentation supporting those findings was included in the CHIA.

The Coal Hollow Mine is a surface mine that is located on 630 acres of private land near Alton, Utah. The operator, Alton Coal Development, is proposing another surface coal mine permit on the Federal lease land surrounding the current Coal Hollow Mine project. If the federal lease land surrounding the Coal Hollow Mine is approved for surface coal mining, DOGM will need to update the CHIA to include new information including an expanded impact assessment which includes both Coal Hollow and the new permit area.

The purpose behind a CHIA is to delineate a Cumulative Impact Area (CIA) where all current and anticipated mining will occur, evaluate cumulative impacts to the hydrologic balance based on all the current and anticipated coal mines within the CIA, and make a finding of whether the mining operation(s) has been designed to minimize impacts within the permit area and prevent material damage to the hydrologic balance outside the permit area (R645-301-729). The purpose of this evaluation was to: (1) determine compliance with State program rules, (2) ensure that the CHIA findings required for approval of the Coal Hollow permit were made, (3) confirm that documentation supporting those findings was included in the CHIA, and (4) to give DOGM suggestions for future updates to the CHIA either pending the permitting of the new mine or if DOGM decides to update the CHIA at their own initiative.

OSM's review found that DOGM's CHIA included the necessary evaluation of the effects of current and anticipated mining on surface and groundwater resources. DOGM also provided a material damage statement in the CHIA which states that the mine operation is designed to prevent material damage to the hydrologic balance outside the permit area. OSM found that DOGM made all the necessary findings required for a CHIA based on requirements in the Utah Administrative Code Section R645-301-729.

OSM also identified several potential discrepancies and made suggestions for future revisions to the CHIA. DOGM responded to OSM's individual comments and concurred with OSM's suggestions for future revisions to the CHIA.

B. Reclamation Success – Protection of Threatened and Endangered Species

This evaluation was based on OSM Directive REG-8 for determining whether the DOGM

is effective in ensuring reclamation success.

As a measure of reclamation success, the Team evaluated DOGM's protection of listed or proposed threatened or endangered (T&E) species. The review focused on whether DOGM was ensuring that operators follow a Protection and Enhancement Plan to minimize disturbances and adverse impacts to T&E species when species are identified within the permit area, and whether mine operators are complying with applicable regulatory and permit requirements pertaining to the minimization of adverse impacts to T&E species and their habitat during coal mining and reclamation operations.

At R645-301-358.100, the Utah Administrative Code prohibits coal mining and reclamation operations from being conducted if those operations are likely to jeopardize the continued existence of endangered or threatened species listed by the Secretary, or if those operations would likely result in the destruction or adverse modification of designated critical habitats of those species. Mine operators must report any T&E species within the permit area to DOGM. Upon notification, DOGM will consult with appropriate state and federal fish and wildlife agencies and identify whether, and under what conditions, the operator may proceed.

To this end, the Division requires that each Mining and Reclamation Plan (MRP) include a list of proposed or listed T&E species and the probability of presence in the permit area. In some circumstances, the Division may require surveys or other site-specific resource information necessary to address the respective species or habitats when the permit area or adjacent area is likely to include listed or proposed T&E species of plants or animals or their critical habitats. The Division requests that this list and site-specific resource information be updated when the operator wants to increase or change their permit area or mining practices.

If a listed or proposed T&E species of plants or animals or their critical habitat is identified on the permit area, the Division consults with the appropriate State and Federal fish and wildlife agencies and the landowner to determine under what conditions the operator may proceed with mining. These conditions may include avoiding certain areas, developing a habitat mitigation plan, animal or plant relocation, periodic surveys, or a combination of these.

Findings

Mine Number 1

In 2005, the mine constructed a new portal facility. Prior to the project, the operator conducted research to determine if any T & E species were present in the area. The following examples demonstrate that the mine conducted the appropriate activities to ensure the protection of T&E species prior to expansion.

In 2003, an environmental consultant conducted an in-depth vegetation analysis of the area related to the proposed portal facilities. Based on populations of certain T&E plant species previously being found to inhabit the area near the proposed facilities, the consultant stated that there was a potential for Canyon sweetvetch and Link Canyon Trail columbine to be present,

which the Forest Service had listed as “sensitive” in the Manti-LaSal National Forest. Neither these plants nor their ideal habitats were observed within the study areas during the course of the field sampling and surveys.

A Habitat Suitability Determination Report was written in 2005. This report focused on the Mexican Spotted Owl (MSO) because a United States Fish and Wildlife Service (USFWS) habitat suitability model had identified the area as containing habitat or potential habitat for the MSO. It was determined that the area, although having many of the characteristics necessary for MSO habitat, was not inhabited by the MSO.

Another concern regarding the protection of T&E species is potential impacts to endangered Colorado River Fish, including the Colorado pikeminnow, razorback sucker, Humpback chub, and bonytail chub that inhabit the lower warm water reaches of the Colorado, Green, Yampa, White, and Gunnison Rivers. Currently, Utah participates in the Upper Colorado River Endangered Fish Recovery Program as a way to offset water depletions, thereby providing a method to mitigate the impacts to endangered fish. As part of the recovery program, calculations must be performed to determine if consumption of water from coal mining is contributing or will contribute to water depletions, thereby affecting fish habitat.

During the processing of a new permit application, a determination must be made as to the amount of water that will be depleted from the upper Colorado River Watershed as a result of the proposed coal mining activity. Existing coal mine operations have been required to revisit the water depletion calculations if a proposed change to the MRP has the potential to significantly increase the amount of depletion from the Colorado River Watershed. This mine has submitted calculations which show that water consumption from mining operations does not significantly impact the Colorado River fish or their habitat.

Mine Number 2

This mine has conducted numerous T&E surveys due to several significant revisions for permit expansion and construction projects. Additionally, a sensitive species Burrowing Owl survey was conducted in 2008 which resulted in a Wildlife Protection and Enhancement Plan for an area which was incorporated into the MRP in October of 2009.

As a result of these many surveys, the mine has made efforts for the protection and enhancement of these “high value habitats” by using recommended seed mixtures to create ideal habitats and permanently retaining ponds as post-mining wildlife enhancement structures.

Another example of how the mine has committed to enhancing wildlife habitat is the construction of artificial burrows for burrowing owls. The mine was required to implement a Protection and Enhancement Plan for the owls after a sighting occurred during an environmental assessment (EA) in 2008. The burrowing owl was using an active prairie dog colony site for nesting. Burrowing owls often return to nest in the same burrow each spring after their winter migration. It was concluded that the owls could be negatively affected from expected subsidence from underground mining during their most critical life period (March through June). Fledging burrowing owls may not be mobile at the time of subsidence and could fall into cracks or be

abandoned as the adults vacate the burrow.

The mine committed to monitor the area during and after subsidence to determine if adverse effects from mining had occurred. Additionally, the mine constructed seven artificial burrows within the permit area. Two of these burrows were intentionally placed in the subsidence zone so that the company could test the effects of subsidence on the burrows. The entrances to these burrows were closed to prevent owls from nesting in them during the test period. The first burrow was placed in the subsidence zone at the mound where the owl was sighted during the EA.

Similar to Mine Number 1, Mine Number 2 participates in the Upper Colorado River Endangered Fish Recovery Program. The mine has submitted calculations which show that water consumption from mining operations does not significantly impact the Colorado River fish or their habitat.

Mine Number 3

Most of the surveys performed at this mine occurred as part of baseline data collection prior to the mine opening, and are included in the MRP. These surveys included helicopter raptor surveys of the permit area and adjacent areas conducted in May 2006 and May 2007 and sensitive plant species surveys conducted in June 2005, August 2006, and September 2007.

The UDWR has conducted raptor surveys for all potential raptor species in the mine project area and did not find habitat for the MSO. However, MSO habitat does occur to the east and west of the mine area.

During the processing of a new permit application, a determination must be made as to the amount of water that will be depleted from the upper Colorado River Watershed as a result of the proposed coal mining activity. Existing coal mine operations have been required to revisit the water depletion calculations if a proposed change to the MRP has the potential to significantly increase the amount of depletion from the Colorado River Watershed.

This mine was not required to submit water consumption calculations because the mine is not within the Upper Colorado River Basin, which is the specific area that is delineated and directed to comply with the Upper Colorado River Endangered Fish Recovery Program.

Although not officially registered as a T&E species, much attention has been given to the sage-grouse. The mine area contains "Crucial Value brood habitat" for the birds. The BLM and the UDWR located a sage-grouse lek in the proposed mine area. In 2005, BLM biologists captured, collared, and began monitoring four sage-grouse in an effort to study the lifecycle and migrating patterns of these birds. In April 2006, the mine began its own sage-grouse studies. In 2007, Southern Utah University and the mine joined the BLM and UDWR in capturing, taking blood samples, and placing radio transmitters on sage-grouse. In April of that year, the mine conducted two helicopter flights to search for satellite sage-grouse leks. An additional, substantially larger, lek has been located off the permit area. Intensive efforts have been made to open a corridor between this off-site lek and the lek within the permit boundary. This connectivity is thought to

greatly increase the chances of survival for the birds. To open up this corridor, many Juniper and Oak stands have been removed to improve the habitat for the birds. To encourage sage grouse survival, over 10,000 Juniper trees have been bull-hogged. This is a process that grinds the entire tree (including roots) out of the ground. This technique causes minor impacts to the existing, essential sagebrush community which is essential habitat for the sage-grouse.

Conclusions

The Team concluded that DOGM is ensuring reclamation success by requiring mining operators to follow Protection and Enhancement Plans to minimize disturbances and adverse impacts to T&E species when species are identified within mine permit areas. This evaluation supports that mine operators are complying with applicable regulatory and permit requirements pertaining to the minimization of adverse impacts to T&E species and their habitat during coal mining and reclamation operations. OSM will continue its evaluation of DOGM's implementation of T&E species protection in Evaluation Year 2013. OSM encourages DOGM to continue working with operators, landowners, and other agencies to ensure that T&E species and their habitat remain protected.

C. Prevention of Off-site Impacts – Effluent Water Discharge Monitoring and Maintenance

This evaluation was based on OSM Directive REG-8 for determining whether the DOGM is effective in preventing off-site impacts. As a measure of prevention of off-site impacts, the Team evaluated whether the Utah program is successfully implementing its effluent water discharge monitoring and mitigation requirements. This review focused specifically on compliance with the requirements of R645-301-731.222.1 (monitoring of point-source discharges), -731-222.2 (monitoring procedures), -731.223 (monitoring data submittal requirements) and -731.225 (installation, maintenance, and operation). Active mine permits were evaluated administratively in the context of regulatory requirements and in the field for on-the-ground compliance.

For the purposes of this evaluation, the Team focused on water quality analyses from calendar year 2011 for Utah Pollutant Discharge Elimination System (UPDES) outfalls and monitoring locations upstream and downstream of those points.

Findings

Mine Number 1

All but one evaluated monitoring point included a full analysis including: total dissolved solids (TDS), total suspended solids (TSS), pH, total iron, total manganese, and flow. The downstream receiving water analysis point did not include TSS but included all other required parameters. Therefore, all evaluated points except one meet all requirements of R645-301-731.222.1.

Rule R645-301-731.223 requires surface water monitoring data to be submitted at least every three months for each monitoring location. It also requires operators to promptly notify DOGM

of noncompliant samples and take immediate actions to minimize any adverse impact to the environment or public health and safety. This mine submits all monthly water monitoring data quarterly via the DOGM water quality database. During calendar year 2011, this mine reported four noncompliant sample results (one TDS and three TSS exceedances). The TDS exceedance was not a violation due to the Salinity Offset Program discussed below. One of the TSS exceedances was later revealed to have been taken from the sedimentation pond when no discharge was occurring. Therefore this did not represent an actual non-compliant sample. All discharge monitoring results, including notifications of exceedances, were reported to the DOGM and Utah Department of Environmental Quality (DEQ). DEQ informed the mine staff that one additional non-compliant TSS sample would necessitate a NOV. The mine did not have another non-compliant TSS sample in 2011.

This mine has participated in the Colorado River Salinity Offset Program since early 2006. This program allows mines to continue operations even when salt load limitations cannot be met by purchasing salinity offsets credits. The mine's offset needs over and above the one ton per day limitation are estimated using discharge rate and TDS concentration data. The operator tracks "non-compliant" TDS and discharge data and uses it to calculate the amount of money they must contribute to the Salinity Offset Fund. The Utah Department of Agriculture and Food uses these funds to finance salinity reduction projects. Salinity reduction projects result in a ton-for-ton salt reduction. Notices of Violation are not issued for TDS exceedances at participating mine sites.

Rule R645-301-731.223 also requires operators to take immediate actions to minimize any adverse impact to the environment or public health and safety including: accelerated or additional monitoring, immediate implementation of measures necessary to comply, and warning any person whose health and safety is in imminent danger due to the noncompliance. This mine does conduct increased monitoring in response to mine discharge water quality. Mine discharge is treated prior to leaving the permit area. Water quality did not necessitate notification of any person whose health and safety was in imminent danger.

R645-301-731.225 requires that equipment, structures, and other devices used in conjunction with monitoring the quality and quantity of surface water on-site and off-site will be properly installed, maintained and operated, as well as be removed by the operator when no longer needed. Mine staff indicated field testing equipment is calibrated weekly. All evaluated testing equipment appeared in good repair and was properly stored in either the office or water treatment facility building.

Mine Number 2

All evaluated monitoring points included analysis of TDS, TSS, pH, total iron, total manganese, and flow. Therefore, all evaluated points meet the requirements of R645-301-731.222.1.

Rule R645-301-731.223 requires surface water monitoring data to be submitted at least every three months for each monitoring location. It also requires operators to promptly notify DOGM of noncompliant samples and take immediate actions to minimize any adverse impact to the environment or public health or safety. This mine submits all monthly water monitoring data quarterly via the DOGM water quality database. Depending upon how a person accesses the

water quality database, it may or may not indicate units of measurement for the data. If units are not displayed, it is difficult to determine whether samples meet regulatory criteria, especially for parameters such as TDS that may carry different types of concentration limitations (e.g. tons/day or mg/L).

The DEQ does not currently impose TDS loading restrictions on this mine's UPDES Outfall 002 because the operator has demonstrated an exemption to that requirement. However, the permittee continues to sample TDS at Outfall 002 and that discharge exceeded what would be the effluent limitation (1 ton/day cumulative discharge from all outfalls) every month during the review period. UPDES permitting falls under the DEQ's purview and outside the scope of this review. During calendar year 2011, this mine did not have or report any discharges that were considered noncompliant. Therefore there was no need to implement any emergency abatement or public notification procedures.

R645-301-731.225 requires that equipment, structures, and other devices used in conjunction with monitoring the quality and quantity of surface water on-site and off-site be properly installed, maintained and operated, as well as be removed by the operator when no longer needed. Mine staff indicated that water samples are collected with plastic buckets. Other than rinsing these buckets prior to collecting samples, no apparent care was taken to safeguard them. Careless storage of sample collection equipment has the potential to corrupt sample results. However, this does not appear to be a problem at this mine, as it did not have any non-compliant discharge events during the evaluated timeframe. UPDES sample point 002 is difficult to access. Mine staff uses a stick to lower the plastic bucket below the walking platform to collect water samples. Sampling equipment, storage methods, and structures could potentially be improved at this mine, however current equipment and structures do not detract from the validity of water monitoring activities and meet the identified regulatory requirements.

Mine Number 3

Downstream monitoring locations included TDS, TSS, pH, total iron, manganese, and flow (all required parameters). The mine recorded flow measurements at the upstream monitoring location, but no flow occurred during 2011. Therefore, the operator could not collect TDS (or specific conductance corrected to 25°C), TSS, pH, total iron, or manganese. All UPDES outfall locations included analysis of TDS, TSS, pH, total iron, and flow. However, no UPDES monitoring points included analysis of total manganese. Therefore, the UPDES outfalls at this mine do not meet all requirements of R645-301-731.222.1.

Rule R645-301-731.223 requires surface water monitoring data to be submitted at least every three months for each monitoring location. It also requires operators to promptly notify DOGM of noncompliant samples and take immediate actions to minimize any adverse impact to the environment or public health and safety. This mine submits all monthly water monitoring data quarterly via the DOGM water quality database. In March of 2011, UPDES sample analysis indicated iron levels of 1.6 mg/L (effluent limitation is 1 mg/L) and TSS levels of 48 mg/L (effluent limitation is 25 mg/L). While this data was correctly reported to the DOGM water quality database, the permittee did not notify DOGM of the exceedances and submitted an inaccurate Discharge Monitoring Report to the DEQ. DOGM discovered the exceedances upon

water quality data review and informed DEQ of the noncompliant discharge event. DEQ staff subsequently conducted a site visit and educated mine staff on procedures for reporting noncompliant discharges. During calendar year 2011, this mine did not have any discharge events necessitating emergency abatement or public notification procedures.

R645-301-731.225 requires that equipment, structures and other devices used in conjunction with monitoring the quality and quantity of surface water on-site and off-site will be properly installed, maintained and operated, as well as be removed by the operator when no longer needed. All water sampling equipment is provided and maintained by a third party. Samples are collected at pond outlet structures, which are in good repair. All evaluated equipment and structures meet the identified regulatory requirements.

Conclusions

As a result of this review, DFD recommends DOGM require Mine #1 to include TSS analysis at the downstream monitoring location. DFD also recommends DOGM require Mine #3 to include manganese testing in its monitoring parameters at UPDES outfall locations. Additionally, DFD recommends DOGM consider updating the water quality database to always display sample parameter units and to ensure proper labeling where results reflect averaged (7- or 30-day) samples.

D. Customer Service – “Applicant/Violator System Maintenance and Determinations”

This evaluation was based on OSM Directive REG-8 for determining DOGM’s effectiveness in serving its customers by entering required information into the Applicant Violator System (AVS) in a timely, complete, and accurate manner.

Section 510(c) of the Surface Mining Control and Reclamation Act (SMCRA) requires that permit approval be withheld to an applicant if any surface coal mining operation owned or controlled by the applicant has any outstanding violation of SMCRA or certain other environmental protection statutes and rules. AVS, an automated information system of applicant, permittee, operator, violation and related data was developed by OSM to assist Utah in making determinations under UCA 40-10-11(3).

This evaluation focused on whether the Utah Division of Oil, Gas and Mining (DOGM) entered information into the AVS in a timely, complete, and accurate manner during the period of July 1, 2011, through June 30, 2012. The evaluation focused on the following four areas:

- Entry of issued permits
- Entry of State Violations
- Requests for evaluations for eligibility prior to permit issuance
- Review of applicant and operator information

Findings

During this evaluation period, Utah entered ten permitting actions; however, only eight of those actions required Utah to request evaluation reports from AVS. The other two permitting actions were amendments and do not require Utah to request an evaluation.

30 CFR §773.12, *Permit Eligibility Determination*, specifically requires regulatory authorities to request a compliance evaluation report from AVS no later than five business days prior to the permit issuance to determine if there are any unabated or uncorrected violations that may affect permit eligibility. A timely request is important because of the extended amount of time that may exist between application receipt and permitting decisions. Often during this time period, changes in applicant and/or operator information occur which could alter the results of earlier AVS evaluations and impact permit eligibility. Utah requested compliance evaluation reports for all eight permitting actions well in advance of the requirements (6 - 64 days prior to permit issuance).

Following Utah's request for compliance evaluation reports from AVS, it became apparent that Utah needed additional assistance from AVS to conduct a quality check of the evaluation reports for three permits to ensure accuracy and identify potential links to violations. Utah also made these requests in a timely manner. For the reasons outline above, the Team found Utah fully successful in this aspect of its approved program.

30 CFR §774.11 requires, in part, that the regulatory authority must enter into AVS all permit records within 30 days after the permit is issued or subsequent changes have been made. During this evaluation period, Utah entered one permit more than thirty days after it was approved for issuance.

In accordance with the requirements of 30 CFR §773.9 *Applicant and Operator Information*, the Team also reviewed Technical Memoranda that were provided by Utah which monitor the ownership and control information to ensure accuracy as it pertains to the information found in the AVS System. The Team determined that the appropriate supporting documentation for this evaluation period is consistent with that contained in the AVS system.

Lastly, there were no state violations to report for this evaluation period.

Conclusions

The Team concluded that Utah is providing effective customer service by performing the required AVS operations in accordance with Section 510(c) of SMCRA. However, Utah's effectiveness in providing customer service through AVS maintenance could be improved upon. Specifically, the Team recommends AVS Users in Utah revisit the AVS Data Entry Standards in the AVS Users Guide, and become thoroughly familiar with both the MOU between OSM and Utah for AVS and the System Advisory Memoranda issued by OSM-AVSO.

Fourth Annual Division-wide Stakeholder Satisfaction Survey (Utah self-evaluation)

DOGM also conducted its fourth annual survey of customer satisfaction during EY 2012 to evaluate performance at the Division and Program level and to foster improved customer service

in the future. The survey included the period of July 6 through August 31, 2011. The results of the survey for the Coal Program, on a 1 to 5 scale with 5 being the highest, were as follows:

Timeliness of Services: 4.27
 Accuracy of Information: 4.18
 Helpfulness of Employees: 4.36
 Expertise of Employees: 4.27
 Availability of Information: 4.00
 Composite Rating: 4.22

VII. Regulatory Program Issues

The following is a description of significant regulatory issues DOGM has addressed on mining operations during EY 2012. Some issues are ongoing and DOGM continues to monitor them.

A. Crandall Canyon Ten-Day Notice

On August 6, 2007 a mine collapse occurred at the Crandall Canyon Mine, which took the lives of six miners. Three rescue workers were killed during a rescue attempt. On August 7, 2007, in an emergency attempt to rescue the men, borehole drilling began from the surface of East Mountain down to the underground workings. Due to the nature of this rescue operation all drill pads and access roads were constructed under emergency provisions. On August 30th, MSHA officially called off the rescue effort. Permitting and reclamation of the seven drill pads and access roads began shortly thereafter. DOGM, along with other state and federal agencies, continues to work with the mine to coordinate reclamation activities. The emergency drill holes, pads, and access roads have now all been reclaimed.

Because the Crandall Canyon Mine was shut down in such an unexpected manner, the provisions for mine water discharge had not been adequately addressed. Water began discharging from the mine portals shortly after they were sealed. A Division Order (C/015/032-DO 08A) was issued on April 22, 2008, requiring Genwal Resources, Inc. (Genwal), permittee for the Crandall Canyon Mine, to make requisite permit changes and update the MRP to include a plan for the discharge of post-reclamation mine water in accordance with R645-301-551, R645-301-731.521, and R645-301-751. The level of iron in the water started to exceed the UPDES discharge parameters and soon began to stain the receiving stream, Crandall Creek. On August 11, 2009, the Division issued a violation to the mine for failure to minimize the disturbance to the hydrologic balance. The mine was required to stop discharging water that exceeded the UPDES permit so a treatment facility was built that would treat the water before it was discharged into Crandall Creek.

On November 9, 2009, after having conducted an inspection at the site, OSM issued two Ten Day Notices (TDN's) for: (1) failure to conduct operations only in accordance with the approved permit, which pertained to the water treatment facility; and (2) failure to maintain adequate bond coverage at all times, which pertained to not having bond for perpetual treatment of the mine water discharge.

By letter to the Office of Surface Mining dated November 23, 2009, DOGM explained the emergency informal approval of the permit amendment allowing construction of a water treatment facility at the Crandall Canyon mine. Also on November 23, 2009, the DOGM issued Division Order C/015/0032-DO09A requiring Genwal Resources to increase the bond held for the site.

The water treatment facility was informally allowed to be constructed before Genwal had submitted a complete permit revision application package. Water was not to enter the facility until DOGM received the requisite engineering details and approved the plan. DOGM was concerned that any further corrective action, or notice of violation, would only delay efforts to treat the water and abate the underlying problem.

Division Order C/015/0032-DO09A required the bond to be increased within 60 days of receipt. Utah American Energy Inc. asked to meet with the Division and contested the requirement to post bond for perpetual treatment of the water citing its believed lack of a regulatory basis for doing so. Annual operation and maintenance costs for the water treatment facility are very high and the bond held may be inadequate to cover such costs over an extended period of time. Determining the costs of operating the water treatment facility for that Division Order was a major effort between the Division and Genwall and required much discussion and interchange.

On December 3, 2009, OSM found that DOGM had shown good cause for not issuing a violation pertaining to the water treatment facility being constructed under emergency procedures and that DO-9A constituted appropriate action to cause the inadequate bond to be corrected. For those reasons, OSM terminated both TDNs. DOGM subsequently revised DO-09A on December 22, 2009 to add requirements that Genwal provide annual operating cost estimates for the ongoing and continual treatment of water, to post money by January 23, 2010 for a water treatment trust fund in the amount required to generate an annuity equal to the estimate provided, to supply detailed engineering plans for final portal closure and final site configuration, to supply new reclamation bond estimates which reflect new plan changes, and to post any additional bond required by March 18, 2010.

On August 16, 2010, DOGM issued Division Order 10A (DO-10A) which superseded all versions of DO-08A and DO-09A. DO-10A was accompanied by DOGM's June 7, 2010 hydrologic report finding probable perpetual polluttional discharge. DO-10A required Genwal to conduct increased water quantity and quality monitoring, revise the Mining and Reclamation Plan to reflect the increased monitoring, provide a bond or trust fund by October 16, 2010, that would yield a yearly payment sufficient to cover the operating costs for the water treatment system in perpetuity (then estimated at \$325,000/year), revise the Probable Hydrologic Consequences determination to reflect current conditions, and make other associated changes to the permit. Genwal Resources, permittee for the Crandall Canyon Mine, complied with the requirements to conduct increased water monitoring and to amend the permit to reflect the increased monitoring.

Genwal appealed the Division Order to the Board of Oil, Gas and Mining (BOGM) on September 15, 2010, indicating its belief that there was no authority for requiring a perpetual

bond and no rules in place to govern a trust fund bonding mechanism. BOGM first heard legal arguments on this matter on January 26, 2011. In May 2011, the BOGM requested that the Division and Genwal work out an agreeable financial mechanism for this financial assurance in the form of a contract between DOGM and Genwal. As part of a good faith effort during negotiations, DOGM revised DO-10A on June 20, 2011, to require a bond or trust fund that will yield a yearly payment sufficient to cover the costs of water treatment in perpetuity with interim steps and timeframes. Subsequent to unsuccessful negotiations between the Division and Genwal, the BOGM issued a Minute Entry on September 30, 2011, which required rule making and an evidentiary hearing regarding bonding costs and the expected duration of the pollutorial discharge. DOGM has not yet pursued an amendment to its bonding regulations and the subsequent Board decision on this matter appears to have negated that need. On October 17, OSM issued a letter to DOGM stating that revised DO-10A constituted appropriate action to cause the inadequate bond to be corrected and terminated the TDN. OSM attached Action Plan #UT-2012-001 to the October 17th letter. The Action Plan (see Appendix 2 of this report) was developed to monitor the State's progress toward successful resolution of this case.

BOGM filed its findings of fact and conclusions of law in the matter of Genwal's request for Board review of DO-10A on March 6, 2012. BOGM amended and vacated portions of DO-10A, finding that DOGM had appropriately sought a bond adjustment but that an interest bearing bonding mechanism would require rulemaking prior to implementation. Additionally, BOGM dismissed DOGM's hydrologic report and findings of probable perpetual pollutorial discharge and accepted Genwal's hydrologic report claiming the noncompliant discharge would not likely persist more than three years. BOGM ruled that the additional bond amount Genwal must post be based on Genwal's costs assuming a best-case scenario. BOGM determined this to be three years of current operating costs (\$240,000), or \$720,000.00. Genwal posted the additional \$720,000.00 bond on July 6, 2012. DOGM also found inadequacies in the bond document language which it is currently working through.

OSM developed and has implemented Action Plan #UT-2012-001 to monitor DOGM's progress in resolving the inadequate bond. The Action Plan outlines the steps called for in DO-10A and alternatives in the event DO-10A was not upheld by the BOGM or was unsuccessful in attaining an adequate bond. OSM revised Action Plan #UT-2012-001 as a result of the BOGM's decision. The original Action Plan did not anticipate a situation in which BOGM would acknowledge the bond was inadequate but require the increase in bond to be based on the operator's costs assuming a best-case scenario. Rule R645-301-830.200 requires bond amounts to be sufficient to assure the completion of the reclamation plan if the work has to be performed by the Division in the event of forfeiture. OSM believes BOGM's decision is in error because it does not assure the reclamation plan could be completed in the event of bond forfeiture based on existing conditions. OSM is currently reviewing this case and will determine how to proceed. Revised Action Plan #UT-2012-001 is attached to this report as Appendix 2.

B. Horse Canyon Mine – Lila Canyon Extension

An application for this permit extension was received by DOGM in September of 1998. After six rounds of deficiencies, a permit was issued in May of 2001 and the Assistant Secretary of Land and Minerals Management (ASLM) approved the Mining Plan on November 5, 2001.

SUWA filed an objection to the permit, and a subsequent hearing before the Utah BOGM on December 14, 2001 resulted in issuance of an order that reversed the Division's decision and remanded the permit back to DOGM. DOGM issued the permit again on May 18, 2007. On June 1, 2007, SUWA appealed the issuance of the permit to the BOGM. On December 10, 2007, the BOGM issued an Order of Dismissal of SUWA's appeal with prejudice. In a May 16, 2007 letter to the BLM and OSM-WR, SUWA asserted that the permit approved by DOGM is an entirely new document that postdates and replaces earlier versions of the permit, and that WR needs to thoroughly review and analyze the new permit before making any recommendations regarding the mining plan.

OSM-WR's review of the revised permit determined that only certain parts of the original 1998 permit were revised to incorporate additional information for hydrological, geological and environmental resources, and proposed mining and reclamation operations have not changed from the 1998 permit. By letter dated June 26, 2007, OSM-WR informed SUWA of the above determination, and stated that the permit issued by DOGM on May 18, 2007, does not meet any of the criteria of 30 CFR §746.18(d) for a mining plan modification. OSM-WR further stated that the November 5, 2001, mining plan approval is still in effect since it has not been modified, cancelled or withdrawn as provided under 30 CFR §746.17(b).

On September 11, 2007, SUWA filed with the U.S. District Court, District of Utah, Central Division a Complaint against the OSM and the BLM alleging that OSM-WR should have prepared a new mining plan for the mine and that BLM violated NEPA. The complaint also requested a Preliminary Injunction to stop the operator from conducting surface disturbances associated with the permit. On December 5, 2007, the Federal District Court issued an Order Denying SUWA's Motion for a Preliminary Injunction to stop the operator from conducting surface disturbances associated with the permit. Oral arguments were heard on August 19, 2008, in Salt Lake City, Utah. On November 13, 2008, the Federal District Court found that OSM-WR did not violate the Mineral Leasing Act by declining to prepare a new recommendation to the ASLM regarding whether the proposed mining plan should be approved. As a result, the court concluded that OSM-WR's actions were not arbitrary, capricious, an abuse of discretion, or contrary to the law. SUWA subsequently appealed the decision to the Federal District Court of Appeals, and the court has yet to render a decision.

UtahAmerican Energy, Inc. initiated construction activities in November 2008. Construction activities included the development of the main and secondary sediment controls, development of the mine office pad and leach field, coal storage pad, shop pad and rock tunnels. In May of 2009 the rock tunnels were developed to the point where they encountered coal and the first coal was brought to the surface and dumped on the coal pad. Surface design changes were approved on June 9, 2010 and the mine continues to build infrastructure in preparation for full scale production. Coal is being hauled from the site on an irregular basis. It is anticipated that production will move from the West Ridge Mine to this mine as the reserves become depleted at West Ridge.

C. Coal Hollow Mine (Alton Coal Development, LLC)

A new permit application for fee surface/fee coal (636 acres) was submitted to the Division on

June 14, 2007. This surface mine is located in the Alton Coal Field. After receiving supplemental information in January 2008, the application was determined to be administratively complete on March 14, 2008. An informal conference was conducted June 16, 2008 after receiving 43 individual comments and four from interested organizations; in addition to three requests for an informal conference. The focus of the informal conference was to allow the public to comment on the public road relocation. Most commenters did not comment on the road relocation, but commented on the affect of mining on the environment and economy.

The permittee provided a revised application on December 2008 and the Division responded with deficiencies on April 20, 2009. The applicant responded on June 16, 2009 with an initial response to the Division's findings and on August 27, 2009 the Division received Alton Coal's complete response to the Technical Analysis. Supplemental information was also provided to the Division on October 8, 2009. Finally on October 15, 2009, the Division approved the application. Shortly after the decision was rendered, on November 18, 2009 an appeal was filed to the Board of Oil, Gas & Mining by a consortium of environmental groups (Sierra Club, Southern Utah Wilderness Alliance, National Parks Conservation Association and Natural Resources Defense Council). Several hearings were held before the board where the petitioners were allowed to provide their arguments as to why the permit should not be issued and the Division provided a defense of its position. On August 3, 2010, the Board ruled in favor of the Division and Alton Coal Development on all counts. The company posted the required bond and on November 8, 2010 the permit was issued. In the mean time, the applicant Alton Coal Development has applied for coal leases on adjacent federal lands. The BLM's updated Draft Environmental Impact Statement for adjacent federal leases will be released for public comment soon. The mine continues to operate and is producing coal which is being shipped to the IPA Power Plant in Delta, Utah.

D. Kinney #2 Mine

A new permit application for the Kinney #2 Mine, Carbon Resources, LLC, was received February 29, 2008. The application is for an underground coal mine on 38 acres of fee surface and 453 acres of fee coal. The application was determined administratively complete on June 25, 2008. As requested, an informal conference was held September 30, 2008. The Center for Water Advocacy filed two petitions to have the Kinney #2 Mine area designated as lands unsuitable for coal mining, but the petitions were incomplete and were never resubmitted.

On September 24, 2008, the Division sent a notice of deficiencies to Carbon Resources informing them that they must address the deficiencies in order for the Division to further process the application. Due to the lack of response from the applicant, processing of the application was suspended for a period of time and finally on January 7, 2010, the Division returned the proposed mine application to Carbon Resources. After some time, Carbon Resources chose to pursue the application again and republished the notice of complete application again on June 10, 17, 24, and July 1, 2010. They also resubmitted a revised and reformatted (prompted by DOGM) application on October 4, 2010.

The review process consisted of the Division identifying deficiencies in the application and the applicant (Carbon Resources, LLC) providing responses. Finally, on June 28, 2011, the last

clean copy submittal was made which incorporated all of the updates made throughout the review process and the application was considered to be complete and accurate. Carbon Resources, LLC was notified that their application was approved on June 30, 2011. The Division is currently waiting for them to post the reclamation bond prior to issuing the permit.

E. Bear Canyon Mine

In June of 2008, CW Mining, permittee and operator of the Bear Canyon Mine, sold their interests and operating agreements associated with the mine to Hiawatha Coal Company. Hiawatha Coal Company approached the Division of Oil, Gas, and Mining in July of 2008 for a permit transfer. The transfer was complicated by an involuntary bankruptcy petition filed by a creditor of CW Mining, and reluctance by the surety company to transfer the bond coverage.

Because of an August, 2008 ruling by Judge Judith A. Boulden of U.S. Bankruptcy Court for the District of Utah that seemed to affirm the sale of the Bear Canyon Mine to Hiawatha Coal Company, the Division proceeded with the permit transfer process. Hiawatha Coal Company did not produce a bond for the Bear Canyon Mine and the Division, after working with them in hopes of a successful resolution, issued a Cessation Order to the then operators, Hiawatha Coal Company, on February 5, 2009. Because the BLM was concerned with a loss of resource, and the company holding the bond in the name of CW Mining assured it would retain liability for reclamation until court proceedings were finalized, the order required the cessation of any additional surface disturbance and underground development mining but allowed for the continuation of underground mining in the current longwall mining panel until that activity was completed.

In April of 2009, the Bankruptcy Court declared that the sale of the mine and assets to Hiawatha Coal Company was not valid and the Trustee retains rights to the mine and all assets of CW Mining. Subsequently, the Division denied the permit transfer to Hiawatha Coal Company.

The Trustee continued to try to sell the property to a viable mining company. A sales agreement was signed by Rhino Energy and on October 12, 2010, an application was submitted for permit transfer under the name of Castle Valley Resources, LLC. The transfer was approved and a permit issued to Castle Valley Resources on December 16, 2010, upon their posting the required replacement bond. Mining has resumed using continuous miners.

F. State Program Amendments

Valid Existing Rights: Subsequent to OSM's request in February 2008 for rule amendments pertaining to Valid Existing Rights, the BOGM on September 24, 2008, supported the commencement of an informal rulemaking process. DOGM and OSM worked cooperatively during EY 2009 and EY 2010 to draft and edit proposed rule amendments on Valid Existing Rights. DOGM presented the proposed rules in EY2010 to the BOGM and they were adopted by the Board on July 28, 2010, after a public rulemaking process. A formal program amendment was submitted to OSM on August 10, 2010. OSM published the proposed changes in the Federal Register on September 30, 2010 (75 FR 60375). No comments were received on the proposed amendments. The final rule notice approving these changes has been drafted. The Solicitor

advised on January 20, 2012 that approval is being withheld until the ownership and control rulemaking is completed, due to a small overlap of rule edits in the two matters.

Ownership and Control: OSM requested extensive state rule amendments in October 2009 pertaining to Ownership and Control. The BOGM on January 27, 2010, supported the commencement of an informal rulemaking process. DOGM and OSM worked cooperatively in 2010 and 2011 on proposed state rule changes. DOGM filed a petition for formal rulemaking with the BOGM on February 8, 2012. The rules were subsequently adopted by the Board on May 23, 2012, after a public rulemaking process. A formal program amendment was submitted to OSM on June 25, 2012. OSM will publish the proposed changes in the Federal Register.

VIII. OSM Assistance

A. Grants

For the one-year grant period starting July 1, 2011, DOGM requested \$1,975,472 in assistance. Utah was originally awarded the full amount or 100% of their request for administration and enforcement (Table 9). However, Utah deobligated \$150,000 in April of 2012 resulting in Utah receiving \$1,825,472. Through a Federal lands cooperative agreement, OSM reimburses DOGM for permitting, inspection and other activities that it performs for coal mines on Federal lands (Table 8). Because most of the mines in Utah occur on Federal lands, Utah uses the option under the Federal Assistance Manual for Area-Weighted Average Option, which would call for OSM to provide funding at an 88% level of DOGM's total program costs. As described above, the Federal appropriation allowed for full funding. OSM also provided Utah with \$40,000 for Underground Mine Mapping under a separate cooperative agreement. Finally, OSM awarded the Utah program with \$4,204,645 in abandoned mine land reclamation funding. This amount represents 100% of required OSM funding for the Utah AML program (Table 9).

B. Education/Outreach/Tools

Through NTTP and TIPS, OSM offers free-of-charge technical training courses to State and Tribal employees. During EY 2012, fifteen DOGM employees (students) participated in five NTTP training opportunities covering Permit Findings, Historical and Archeological Resources, AML Design Workshop for Dangerous Openings, Subsidence, and Quantitative Hydrology. Two DOGM employees participated in one TIPS instructor-led training opportunity covering Introduction to GIS for Mining and Reclamation. DOGM, in kind, provided one NTTP instructor.

OSM's Technical Librarian filled 2 reference requests, and provided 19 article reprints to Utah Staff. OSM's Technical Library web site can be accessed at <http://www.techtransfer.osmre.gov/NTTMainSite/osmlibrary.shtm>.

DOGM used the OSM TMD / TIPS downhole camera (MARKS GeoVision Camera) www.geovision.org throughout EY 2012 on several Title IV and Title V mine sites. DOGM also used the TMD / TIPS infrared thermography camera (FLIR Camera, Model P-660) during EY 2012 for thermal analysis and images from coal seam fires in Utah. See the FLIR camera at:

<http://www.flir.com/thermography/americas/us/content/?id=18340>. DOGM also employed the FLIR P-660 infrared camera to count Sage Grouse during their spring mating season near an active coal mine in Kane County, UT. The Western Region TMD is awaiting the results of this Sage Grouse monitoring.

A DOGM hydrologist working with the OSM Denver Field Division staff deployed a Trimble Juno to accurately map spring water locations.

C. Technical Assistance

In the spring of 2012, OSM provided technical assistance to DOGM on the post-mining discharge at the Crandall Canyon mine. As summarized above, the tragic incident at Crandall Canyon resulted in a premature cessation of mining. A mine pool developed that resulted in an uncontrolled gravity discharge at the sealed mine portal. The water is characterized as net alkaline iron-laden mine drainage that requires treatment to achieve the UPDES effluent standards.

The probable hydrologic consequences section of the permit did not predict a point-source polluttional discharge after completing reclamation activities such as the installation of mine seals. DOGM was concerned the remaining reclamation activities would fail to cease the mine pool discharge and that the current gravity discharge would persist after the full implementation of the approved reclamation plan. Furthermore, DOGM was concerned the current bond amount was inadequate to cover the annual treatment costs in the event of a bond forfeiture. Consequently, DOGM issued a Division Order to increase the bond to cover the future treatment costs. Genwal objected to the assumptions and bonding mechanisms required in the Division Order. Genwal also produced a technical report that predicted the iron concentrations would naturally attenuate to effluent quality within three years and would no longer require treatment. Genwal's position was that the increase in bond must be based on a three year treatment time frame. Since post-mining discharges are a rare occurrence in Utah, DOGM requested technical assistance from the DFD to help evaluate this assumption.

The DFD secured an OSM staff hydrologist from Pennsylvania who specializes in mine drainage from underground mines. The technical assistance request entailed the OSM hydrologist and DOGM technical staff visiting the Crandall Crayon mine site and discussing Genwal's prediction.

The OSM hydrologist reviewed the technical reports and select permit data for the mine. The hydrologist's data analysis showed the source of the iron problem in the untreated water is from suspended iron being discharged from the portal. The fact that the data showed the majority of the iron concentration was in the suspended form, as opposed to the dissolved form, was evidence that iron was being precipitated in situ and mine pool velocities are were responsible for transporting the suspended iron out of the portal. Therefore, any attempt to predict a future decrease in iron concentration would have to identify a mechanism that would cause a decrease in mine pool velocities to retain the iron or identify the mechanism that would cause a reduction in iron solubility.

Genwal's technical report simply relied on data analysis to show that iron is decreasing with time and didn't identify the mechanisms causing the purported decrease. The OSM hydrologist reasoned that reliable predictions couldn't be made without identifying the exact mechanisms controlling the decrease. Without a full understanding of the mechanisms, the observed trend in iron concentration may stop short of decreasing to the point of achieving effluent standards which would lead to a future unfunded liability. Only a full understanding of the hydrologic system would facilitate an accurate prediction. As a result, the OSM hydrologist fully supported DOGM's position that the longevity of the elevated iron concentration is unknown and that any bonding calculations must be based on assuming the current water quality condition will persist into the future.

EY 2012 UTAH EVALUATION TEAM MEMBERS

Steve Christensen, Steve Demczak, Daron Haddock, and Steve Schneider, DOGM

Christine Belka, Christy Hulsman, Dan MacKinnon, Elizabeth Shaeffer, Spencer Shumate, and Howard Strand, DFD

Dana Dean, DOGM, and Kenneth Walker, DFD (Team coaches)

Cover Page Photo: Castle Gate Mine reclamation

**Utah Annual Evaluation Report
Evaluation Year 2012**

APPENDIX 1

Summary of Core Data to Characterize the Utah Program

The following tables present summary data pertinent to mining operations and regulatory activities under the Utah regulatory program. Unless otherwise specified, the reporting period for the data contained in the tables is the Evaluation Year. Other data and information used by OSM in its evaluation of Utah's performance is available for review in the evaluation files maintained by the Denver Field Division.

Because of the enormous variations from state to state and tribe to tribe in the number, size, and type of coal mining operations and the differences between state and tribal programs, the summary data should not be used to compare one state or tribe to another.

Many of the tables were revised during Evaluation Years 2011 and 2012. Please note that several complications were encountered with the automated data entries that resulted in inaccurate data. Specific problems are noted below for Table 7.

List of Tables

Table 1	Coal Produced for Sale, Transfer, or Use
Table 2	Permanent Program Permits, Initial Program Sites, Inspectable Units, and Exploration
Table 3	Permits Allowing Special Categories of Mining
Table 4	Permitting Activity
Table 5	Off-site Impacts
Table 6	Surface Coal Mining and Reclamation Activity
Table 7	Bond Forfeiture Activity

Utah has bond forfeiture sites which have been completely reclaimed, but jurisdiction has not been terminated. Table 7 does not account for this situation. Because Table 7 automatically populates data into other tables, all bond forfeiture sites must be reported here. The data in Table 7 has been footnoted to indicate that all bond forfeiture sites in Utah have been reclaimed.

Table 8	Regulatory and AML Programs Staffing
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Table 9	Funds Granted to Utah by OSM
Table 10	Utah Inspection Activity
Table 11	Utah Enforcement Activity
Table 12	Lands Unsuitable Activity
Table 13	OSM Oversight Activity
Table 14	Status of Action Plans
EY 2012	Utah Reclamation Status Table

TABLE 1

COAL PRODUCED FOR SALE , TRANSFER, OR USE¹ (Millions of short tons)			
Calendar Year	Surface Mines	Underground Mines	Total
2011	0.406	19.859	20.265

¹Coal production is the gross tonnage (short tons) and includes coal produced during the calendar year (CY) for sale, transfer or use. The coal produced in each CY quarter is reported by each mining company to OSM during the following quarter on line 8(a) of form OSM-1, "Coal Reclamation Fee Report." Gross tonnage does not provide for a moisture reduction. OSM verifies tonnage reported through routine auditing of mining companies. This production may vary from that reported by other sources due to varying methods of determining and reporting coal production.

TABLE 2

PERMANENT PROGRAM PERMITS, INITIAL PROGRAM SITES, INSPECTABLE UNITS, AND EXPLORATION														
Mines and Other Facilities	Numbers of Permanent Program Permits and Initial Program Sites								Insp. Units^{1 2}	Area in Acres³				Total Area
	Permanent Program Permits				Initial Program Sites					Permanent Program Permits (Permit Area)		Initial Program Sites		
	Active	Inactive	Abandoned	Total	Active	Inactive	Abandoned	Total		Federal Lands	State/Tribal and Private Lands	Federal Lands	State/Tribal and Private Lands	
Surface Mines	3	0	1	4	0	0	0	0	4	153	637	0	0	790
Underground Mines	13	8	5	26	0	0	0	0	26	299	1,533	0	0	1,832
Other Facilities	4	2	0	6	0	0	0	0	6	88	567	0	0	655
Total	20	10	6	36	0	0	0	0	36	540	2,737	0	0	3,277
Permanent Program Permits and Initial Program Sites (Number on Federal Lands: 0)				Total Number:		36		Average Acres per Site:				91.03		
Average Number of Permanent Program Permits and Initial Program Sites per Inspectable Unit (IU):				Total Number:		1.00		Average Acres per IU:				91.03		
Permanent Program Permits in Temporary Cessation:				Total Number:		10		Number More than 3 Years:				9		
EXPLORATION SITES				Total Number of Sites				Sites on Federal Lands⁴				Exploration Inspectable Units		
Exploration Sites with Permits:				0				0				0		
Exploration Sites with Notices:				4				3				0		
¹ An Inspectable Unit may include multiple small and neighboring Permanent Program Permits or Initial Program Sites that have been grouped together as one Inspectable Unit, or conversely, an Inspectable Unit may be one of multiple Inspectable Units within a Permanent Program Permit.														
² Total Inspectable Units calculation includes Exploration Sites Inspectable Units														
³ When a Permanent Program Permit or Initial Program Site contains both Federal and State and Private lands, the acreage for each type of land is in the applicable column.														
⁴ The number of Exploration Sites on Federal lands includes sites with exploration permits or notices any part of which is regulated by the state under a cooperative agreement or by OSM pursuant to the Federal Lands Program, but excludes exploration sites that are regulated by the Bureau of Land Management														

TABLE 3

PERMITS ALLOWING SPECIAL CATEGORIES OF MINING			
Special Category of Mining	30 CFR Citation Defining Permits Allowing Special Mining Practices	Numbers of Permits	
		Issued During EY	Total Active and Inactive Permits
Experimental Practice	785.13(d)	0	1
Mountaintop Removal Mining	785.14(c)(5)	0	0
Steep Slope Mining	785.15(c)	0	0
AOC Variances for Steep Slope Mining	785.16(b)(2)	0	0
Prime Farmlands Historically Used for Cropland	785.17(e)	0	0
Contemporaneous Reclamation Variances	785.18(c)(9)	0	0
Mining on or Adjacent to Alluvial Valley Floors	785.19(e)(2)	0	2
Auger Mining	785.20(c)	0	0
Coal Preparation Plants Not Located at a Mine Site	785.21(c)	0	0
In-Situ Processing	785.22(c)	0	0
Remining	773.15(m) and 785.25	0	2
Activities in or Within 100 Feet of a Perennial or Intermittent Stream	780.28(d) and/or (e) 784.28(d) and/or (e)	0	18

TABLE 4

PERMITTING ACTIVITY												
Type of Application	Surface Mines			Underground Mines			Other Facilities			Totals		
	App. Rec.	Issued/ Appvd	Acres	App. Rec.	Issued/ Appvd	Acres ¹	App. Rec.	Issued/ Appvd	Acres	App. Rec.	Issued/ Appvd	Acres
New Permits	0	0	0	0	0	0	0	0	0	0	0	0
Renewals	0	0		8	8		0	0		8	8	
Transfers, sales, and assignments of permit rights	0	0		0	0		0	0		0	0	
Small operator assistance	0	0		0	0		0	0		0	0	
Exploration permits										0	4	
Exploration notices ²											0	
Revisions that do not add acreage to the permit area		8			50			5			63	
Revisions that add acreage to the permit area but are not incidental boundary revisions	0	0	0	0	0	0	0	0	0	0	0	0
Incidental boundary revisions	0	0	0	3	3	34	0	0	0	3	3	34
Totals	0	8	0	11	61	34	0	5	0	11	78	34
Permits terminated for failure to initiate operations:									Number:	0	Acres:	0.0
Acres of Phase III bond releases (Areas no longer considered to be disturbed):											Acres:	1.0
Permits in temporary cessation									Notices received:	1	Terminations:	2
Midterm permit reviews completed that are not reported as revisions									Number:	8		
¹ Includes only the number of acres of proposed surface disturbance												
² State approval not required. Involves removal of less than 250 tons of coal and does not affect lands designated unsuitable for mining.												

TABLE 5

**OFF-SITE IMPACTS
EXCLUDING BOND FORFEITURE SITES**

RESOURCES AFFECTED		People			Land			Water			Structures		
DEGREE OF IMPACT		Minor	Moderate	Major	Minor	Moderate	Major	Minor	Moderate	Major	Minor	Moderate	Major
TYPE OF IMPACT EVENT	NUMBER OF EVENTS												
Blasting	0	0	0	0	0	0	0	0	0	0	0	0	0
Land Stability	0	0	0	0	0	0	0	0	0	0	0	0	0
Hydrology	1	0	0	0	1	0	0	1	0	0	0	0	0
Encroachment	0	0	0	0	0	0	0	0	0	0	0	0	0
Other	0	0	0	0	0	0	0	0	0	0	0	0	0
Total	1	0	0	0	1	0	0	1	0	0	0	0	0

Total Number of Inspectable Units²: 30

Inspectable Units with one or more off-site impacts: 2

Inspectable Units free of off-site impacts: 28

% of Inspectable Units free of off-site impacts¹: 93

OFF-SITE IMPACTS AT BOND FORFEITURE SITES

RESOURCES AFFECTED		People			Land			Water			Structures		
DEGREE OF IMPACT		Minor	Moderate	Major	Minor	Moderate	Major	Minor	Moderate	Major	Minor	Moderate	Major
TYPE OF IMPACT EVENT	NUMBER OF EVENTS												
Blasting	0	0	0	0	0	0	0	0	0	0	0	0	0
Land Stability	0	0	0	0	0	0	0	0	0	0	0	0	0
Hydrology	0	0	0	0	0	0	0	0	0	0	0	0	0
Encroachment	0	0	0	0	0	0	0	0	0	0	0	0	0
Other	0	0	0	0	0	0	0	0	0	0	0	0	0
Total	0	0	0	0	0	0	0	0	0	0	0	0	0

Total Number of Inspectable Units²: 6

Inspectable Units with one or more off-site impacts: 0

Inspectable Units free of off-site impacts: 6

% of Inspectable Units free of off-site impacts¹: 100

TABLE 5
(Continued)

TOTAL OFF-SITE IMPACTS INCLUDING BOND FORFEITURE SITES													
RESOURCES AFFECTED		People			Land			Water			Structures		
DEGREE OF IMPACT		Minor	Moderate	Major	Minor	Moderate	Major	Minor	Moderate	Major	Minor	Moderate	Major
TYPE OF IMPACT EVENT	NUMBER OF EVENTS												
Blasting	0	0	0	0	0	0	0	0	0	0	0	0	0
Land Stability	0	0	0	0	0	0	0	0	0	0	0	0	0
Hydrology	1	0	0	0	1	0	0	1	0	0	0	0	0
Encroachment	0	0	0	0	0	0	0	0	0	0	0	0	0
Other	0	0	0	0	0	0	0	0	0	0	0	0	0
Total	1	0	0	0	1	0	0	1	0	0	0	0	0
Total Number of Inspectable Units ² :				36									
Inspectable Units with one or more off-site impacts:				2									
Inspectable Units free of off-site impacts:				34					% of Inspectable Units free of off-site impacts ¹ :			94	
¹ % of Inspectable Units free of off-site impacts is based on the number of Inspectable Units at the end of the Evaluation Year. The number of Inspectable Units may vary during the Evaluation Year.													
² Total number of Inspectable Units is (1) the number of Inspectable Units at the end of the Evaluation Year and (2) the number of Inspectable Units removed during the Evaluation Year and (3) the number bond forfeiture sites that were reclaimed during the Evaluation Year and (4) the number of bond forfeiture sites that were unreclaimed during the Evaluation Year.													

TABLE 6

SURFACE COAL MINING AND RECLAMATION ACTIVITY							
Areas of Phase I, II, and III Bond Releases During the Evaluation Year (EY)							
Phase I Releases	Phase II Releases		Phase III Releases			Total Acres Released During the EY	
	Total Acres Released in Approved Phase II Releases	Acres not previously released under Phase I	Total Acres Released in Approved Phase III Releases	Acres not previously released under Phase II	Acres not previously released under Phase I or II		
0		0			0	Phase I	0
	0			1		Phase II	1
			1			Phase III	1
Cumulative Total Acres Released under All Bond Release Phases at the End of the Evaluation Year					304	Other Releases - Acres	
Number of Permanent Program Permits with Jurisdiction Terminated Under Phase III Bond Release During the Evaluation Year					0		
Initial Program Sites with Jurisdiction Terminated During the Evaluation Year					0	Administrative Adjustments	0
Number of Inspectable Units Removed					0	Bond Forfeiture	0
Areas of Permits Bonded for Disturbance by Surface Coal Mining and Reclamation Operations ¹							
					Total Acres at Start of EY	Total Acres at End of EY	Change in Acres During EY
New Area Bonded for Disturbance							0
Total Area Bonded for Disturbance					2,809	2,808	(1)
Area Bonded for Disturbance without Phase I Bond Release					2,090	2,090	0
Area Bonded for Disturbance for which Phase I Bond Release Has Been Approved					717	717	0
Area Bonded for Disturbance for which Phase II Bond Release Has Been Approved					475	476	1
Area Bonded for Disturbance with Bonds Forfeited During Evaluation Year							0
Area Bonded for Remining					0	350	350
Areas of Permits Disturbed by Surface Coal Mining and Reclamation Operations							
Disturbed Area					2,808	2,808	0

¹Disturbed acreage is cumulative

TABLE 7

BOND FORFEITURE ACTIVITY (Permanent Program Permits)			
Bond Forfeiture and Reclamation Activity	Number of Sites	Dollars	Acres
Sites with bonds forfeited and collected that were un-reclaimed at the start of the current Evaluation Year (i.e, end of previous Evaluation Year) ¹	6		470
Sites with bonds forfeited and collected during the current Evaluation Year	0	0	0
Sites with bonds forfeited and collected that were re-permitted during the current Evaluation Year	0		0
Sites with bonds forfeited and collected that were reclaimed during the current Evaluation Year	0		0
Sites with bonds forfeited and collected that were un-reclaimed at the end of the current Evaluation Year ¹	6		470
Sites with bonds forfeited but un-collected at the end of the current Evaluation Year	0		0
Forfeiture Sites with Long-Term Water Pollution			
Bonds forfeited, lands reclaimed, but water pollution is still occurring	0		
Bonds forfeited, lands reclaimed, and water treatment is ongoing	0		
Surety/Other Reclamation Activity In Lieu of Forfeiture			
Sites being reclaimed by surety/other party at the start of the current Evaluation Year (i.e., the end of previous Evaluation Year) ²	0		0
Sites where surety/other party agreed during the current Evaluation Year to do reclamation	0		0
Sites being reclaimed by surety/other party that were re-permitted during the current Evaluation Year	0		0
Sites with reclamation completed by surety/other party during the current Evaluation Year ³	0		0
Sites being reclaimed by surety/other party at the end of the current Evaluation Year ²	0		0
¹ Includes data for those forfeiture sites where reclamation has been completed but the State has not yet terminated jurisdiction. ² Includes all sites where surety or other party has agreed to complete reclamation and the site is not fully reclaimed. ³ These sites are also reported in Table 6, Surface Coal Mining and Reclamation Activity, because Phase III bond release would be granted on these sites.			

TABLE 8

REGULATORY AND AML PROGRAMS STAFFING	
Function	Number of FTEs
Regulatory Program	
Permit Review and Maintenance	10.00
Inspection	3.00
Other (supervisory, clerical, administrative, fiscal, personnel, etc.)	4.00
Regulatory Program Total	17.00
AML Program Total	10.00
TOTAL	27.00

TABLE 9

FUNDS GRANTED TO STATE OR TRIBE BY OSM (Actual Dollars Rounded to the Nearest Dollar)			
Type of Funding	Federal Funds Awarded	Total Program Cost	Federal Funds Awarded as a Percentage of Total Program Costs
Regulatory Funding			
Administration and Enforcement Grant	1,825,472		
Other Regulatory Funding, if applicable	0		
Subtotal (Regulatory Funding)	1,825,472	2,074,400	88
Small Operator Assistance Program Grant Funding	0	0	
Abandoned Mine Land Reclamation Funding	4,204,645	0	
Watershed Cooperative Agreement Program	0	0	
TOTAL	6,030,117		

TABLE 10

STATE INSPECTION ACTIVITY								
Permits and sites	Number of inspections conducted		Percent of required inspections conducted ¹		Permits and sites for which State met required inspection frequency			
	Complete inspections	Partial inspections	Complete inspections	Partial inspections	Complete inspections		All inspections	
COAL MINES AND FACILITIES					Number	%	Number	%
Active	77	160	96	100	19	95.0	19	95.0
Inactive	40	43	100	100	10	100.0	10	100.0
Abandoned	10	7	100	100	6	100.0	6	100.0
TOTALS	127	210	296	300	35	97.2	35	97.2
Exploration sites with permits ²	0	0						
Exploration sites with notices ²	4	4						

¹ Calculated on a site-specific basis. Excess complete inspections are considered partial inspections. For each site, any inspections in excess of the total number required by the approved program are not included.

² Includes all valid notices and permits. No inspection frequency data are provided since SMCRA does not establish a minimum numerical inspection frequency for coal exploration activities.

TABLE 11

STATE OR TRIBAL ENFORCEMENT ACTIVITY		
Type of Enforcement Action	Number of Actions ¹	Number of Violations ¹
Notice of Violation	7	7
Failure-to-Abate Cessation Order	0	0
Imminent Harm Cessation Order	0	0

¹ Does not include actions and violations that were vacated.

TABLE 12

LANDS UNSUITABLE ACTIVITY		
Activity	Number	Acres
Petitions Received	0	
Petitions Rejected	0	
Petitions Accepted	0	
Decisions Denying Petition	0	
Decisions Declaring Lands Unsuitable	0	0
Decisions Terminating Unsuitable Designations	0	0

TABLE 13

OSM OVERSIGHT ACTIVITY					
Oversight Inspections and Site Visits					
	Complete		Partial		
	Joint	Non-Joint	Joint	Non-Joint	Total
Oversight Inspections	4	0	11	0	15
	Technical Assistance		Other		Total
Site Visits	0		0		0
Violations Observed by OSM and Citizen Requests for Inspection¹					
Type of Action					Total number of each action
How many violations were observed by OSM on oversight inspections?					0
Of the violations observed, how many did OSM defer to State action during inspections?					0
Of the violations observed, how many did OSM refer to the State through Ten-Day Notices? ²					0
How many Ten-Day Notices did OSM Issue for observed violations? ³					0
How many Ten-Day Notices did OSM issue to refer citizen requests for inspection?					0
How many Notices of Violation did OSM issue?					0
How many Failure-to-Abate Cessation Orders did OSM issue?					0
How many Imminent Harm Cessation Orders did OSM issue?					0
OSM Action for Delinquent Reporting or Non-Payment of Federal AML Reclamation Fees					
How many Ten-Day Notices for delinquent reporting or non-payment of Federal AML reclamation fees did OSM issue?					0
How many Notices of Violation for delinquent reporting or non-payment of Federal AML reclamation fees did OSM issue?					0
How many Federal Failure-to-Abate Cessation Orders for delinquent reporting or non-payment of Federal AML reclamation fees did OSM issue?					0
¹ This section does not include actions for delinquent reporting or non-payment of Federal AML fees that are reported in the last section of the table. ² Number of violations contained in Ten-Day Notices not including those issued to refer citizen requests for inspection. ³ Number of Ten-Day Notices issued not including those to refer citizen requests for inspection.					

TABLE 14

STATUS OF ACTION PLANS

Action Plan ID	Problem Type ¹	Problem Title	Problem Description	Date Action Plan Initiated	Scheduled Completion Date	Actual Completion Date
UT-2012-001	RP	Inadequate Bond	The performance bond is insufficient to assure completion of the reclamation plan in the event of forfeiture.	02/06/2012	6/11/2013	
¹ Problem Type: "PA" indicates a required Program change under subchapter T or 732 "RP" indicates a Regulatory Program implementation or administrative problem						

Utah Reclamation Status Table for EY-2012 (Mine by Mine)

RECLAMATION STATUS OF ALL AREAS DISTURBED UNDER THE PERMANENT REGULATORY PROGRAM

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16

Acres Disturbed As of EY-2012

Mine Name	Mine type		Disturbed area		Long-term mining or reclamation facilities	Active mining area	Areas backfilled and graded		Areas released phase I bond		Areas soiled and seeded / planted		Areas released phase II bond		Areas final seeded / planted for 10 years		Areas released phase III bond	
	Surface	Underground	EY	Total (all years)			EY	Total (all years)	EY	Total (all years)	EY	Total (all years)	EY	Total (all years)	EY	Total (all years)	EY	Total (all years)
	Castle Gate Mine		X	0			62	62	0	0	62	0	62	0	62	0	58	0
Skyline Mine		X	0	122	122	0	0	0	0	0	0	0	0	0	0	0	0	0
Star Point Mine		X	0	87	101	0	0	95	0	95	0	95	0	95	0	0	0	13
Hiawatha Mine		X	0	290	290	0	0	96	0	96	0	96	0	0	0	0	0	0
Wellington Preparation Plant	X		0	392	392	0	0	0	0	0	0	0	0	0	0	0	0	0
Horse Canyon Mine		X	0	43	117	0	0	74	0	74	0	74	0	74	0	0	0	74
Gordon Creek #2, #7, and #8		X	0	34	35	0	0	33	0	33	0	33	0	33	0	0	0	1
Soldier Canyon Mine		X	0	24	24	0	0	0	0	0	0	0	0	0	0	0	0	0
Centennial Mine		X	0	47	47	0	0	0	0	0	0	0	0	0	0	0	0	0
Horizon Mine		X	0	10	10	0	0	0	0	0	0	0	0	0	0	0	0	0
Savage Coal Terminal	X		0	133	133	0	0	0	0	0	0	0	0	0	0	0	0	0
Wildcat Loadout	X		0	78	78	0	0	0	0	0	0	0	0	0	0	0	0	0
Banning Loadout	X		0	22	22	0	0	0	0	0	0	0	0	0	0	0	0	0
SCA	X		0	197	202	0	0	5	0	5	0	5	0	5	0	0	0	5
Willow Creek Mine		X	0	95	188	0	0	187	0	187	0	92	0	92	0	0	0	92
Dugout Mine		X	0	109	109	0	0	0	0	0	0	0	0	0	0	0	0	0
West Ridge Mine		X	0	31	31	0	0	0	0	0	0	0	0	0	0	0	0	0
Star Point Refuse Mine	X		0	153	153	0	0	0	0	0	0	0	0	0	0	0	0	0
Wellington Dry-Coal Cleaning Facility	X		0	30	30	0	0	0	0	0	0	0	0	0	0	0	0	0
Hidden Valley Mine		X	0	7	7	0	0	7	0	7	0	7	0	0	0	0	0	0
Trail Mountain Mine		X	0	10	10	0	0	0	0	0	0	0	0	0	0	0	0	0
Emery Deep Mine		X	0	249	249	0	0	0	0	0	0	0	0	0	0	0	0	0
Des-Bee-Dove Mine		X	0	41	137	0	0	43	0	137	0	0	0	96	0	0	0	96
Deer Creek Mine		X	0	92	92	0	0	1	0	1	0	0	1	1	0	0	1	1
Cottonwood/Wilberg Mine		X	0	45	67	0	0	21	0	21	0	21	0	21	0	0	0	21
Bear Canyon Mine		X	0	40	40	0	0	0	0	0	0	0	0	0	0	0	0	0
Crandall Canyon		X	0	27	27	0	0	0	0	0	0	0	0	0	0	0	0	0
Coal Hollow Mine	X		0	289	200	0	0	0	0	0	0	0	0	0	0	0	0	0
SUFCO Mine		X	0	48	48	0	0	0	0	0	0	0	0	0	0	0	0	0
Columbia Exploration Project		X	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Willow Creek Mine		X	0	4	0	0	0	4	0	0	0	4	0	0	0	4	0	4
Trail Canyon Mine		X	0	10	0	0	0	10	0	10	0	10	0	10	0	10	0	10
Gordon Creek #3 and #6		X	0	17	0	0	0	17	0	17	0	17	0	17	0	17	0	17
Huntington #4 Mine		X	0	13	0	0	0	13	0	13	0	13	0	13	0	13	0	13
J.B. King Mine		X	0	28	0	0	0	28	0	0	0	28	0	0	0	28	0	28
Sunnyside Coal Company		X	0	287	0	0	0	287	0	0	0	287	0	0	0	0	0	0
Blazon Mine		X	0	7	0	0	0	7	0	0	0	7	0	0	0	0	0	0
Summit #1		X	0	14	0	0	0	14	0	0	0	14	0	0	0	0	0	0
Boyer Mine		X	0	7	0	0	0	7	0	0	0	7	0	0	0	0	0	0
Black Jack #1 Mine		X	0	3	0	0	0	3	0	0	0	3	0	0	0	0	0	0
White Oak #1 & #2 Mines and Loadout	X		0	151	0	0	0	151	0	0	0	151	0	0	0	0	0	0
TOTAL			0	3349	3022	0	0	1166	0	757	0	1028	1	515	0	72	1	376

Legend

Final Bond Release Sites

Bond Forfeiture Sites

Revised Action Plan ID: #UT-2012-001

February 6, 2012 (see 9/10/12 update below)

Problem Description: Genwal Resources, Inc. (Genwal) has failed to maintain adequate bond coverage at all times. Genwal's performance bond for the Crandall Canyon Mine is inadequate to cover the costs associated with perpetual pollutional discharge water treatment. The Office of Surface Mining Reclamation and Enforcement (OSM) originally identified this problem on November 9, 2009, by issuing ten day notice #X09-140-182-002. The Utah Division of Oil, Gas, and Mining (DOGGM) issued Division Order DO09A to Genwal on November 23, 2009. This Order required an increased bond to cover the costs of perpetual water treatment. Genwal appealed this Order to the Board. The Board required DOGM and Genwal to negotiate this dispute. During these negotiations, DOGM revised the requirements set forth under DO09A and issued DO10A on August 17, 2010. This Division Order was more flexible and reasonable in its approach to attaining the additional financial assurance. DO10A required Genwal to post a bond to cover the costs of long term water treatment over the course of a ten year period. Genwal appealed this Order to the Board in a Request for Agency Action filed September 15, 2010. The Division filed a response and entered into a Stipulation filed October 21, 2010 ("Scheduling Stipulation"). The Scheduling Stipulation extended the required dates for compliance stated in DO10A until the completion of hearings and a decision by the Board on this matter. The Board supported DOGM's authority to require the increased financial assurance, but questioned the use of a trust fund bonding mechanism. The Board has not yet made a final ruling on this matter.

Criteria for Resolution: The regulatory authority must hold a performance bond adequate to cover the costs of long-term water treatment and reclamation at the Crandall Canyon Mine.

Action Sequence:

1. Resolution of the Board process which is currently underway¹.
2. If DO10A is not upheld, then DOGM must require a full cost bond for long-term water treatment. The bond amount must be based upon the costs associated with the current treatment facility. OSM will monitor to ensure the full cost bond is posted within one year of the Board's decision.
3. If DO10A is upheld, OSM will monitor DOGM's implementation of Division Order DO10A. DO10A, or its acceptable successor, will cause Genwal Resources, Inc. (Genwal) to post increased financial assurance for the Crandall Canyon Mine incrementally over a period of ten years. The following steps will apply:
 - a. Genwal must post an interim (five year) surety
 - b. Genwal must post one additional year's operating expenses
 - c. Genwal must post one additional year's operating expenses
 - d. Genwal must submit plans for the long-term water treatment facility

¹ The Board process concluded on March 6th, 2012. Please see supplementary sections entitled "Post-Board Ruling Update," "Updated Problem Description," "Updated Criteria for Resolution," "Updated Action Sequence" and "Updated Schedule" below.

- e. DOGM will determine amount necessary for long-term financial assurance account
 - f. DOGM will transfer interim surety funds to long-term account
 - g. DOGM will calculate the difference between current amount held and necessary funds for long-term account
 - h. Genwal must post 1/5 of this difference
 - i. Genwal must post 1/5 of this difference
 - j. Genwal must post 1/5 of this difference
 - k. Genwal must post 1/5 of this difference
 - l. Genwal must post 1/5 of this difference
 - m. DOGM will hold and manage the long-term bond for the Crandall Canyon Mine.
4. In the event the Division of Oil, Gas, and Mining (DOGM) is unable to attain adequate bond coverage within the specified time period, the OSM Denver Field Division (DFD) will conduct a Federal inspection and take Federal enforcement action to compel compliance.

Schedule:

1. No later than March 28, 2012, resolve the current Board review process.
2. If DO10A is not upheld, no later than March 28, 2013, Genwal must post a full cost bond based on the costs associated with the current treatment facility.
3. If DO10A is upheld, no later than April 30, 2012, Genwal must post the interim surety sufficient to cover five years of operating expenses.
4. No later than April 30, 2016, Genwal must post one additional year's worth of operating expenses to the interim surety. This will result in DOGM holding six years of operating expenses.
5. No later than April 30, 2017, Genwal must post one additional year's worth of operating expenses to the interim surety. This will result in DOGM holding seven years of operating expenses.
6. No later than April 30, 2017, Genwal must submit plans for its permanent water treatment facility. The long-term bond will be calculated based on the costs associated with this long-term facility including operation, maintenance, and reclamation.
7. No later than January 31, 2018, DOGM will determine the amount for a long-term financial assurance adequate to cover the costs of operating the treatment facility, the capital cost of the long-term treatment facility and equipment, and a 15% surcharge of the capital costs of the long-term facility.
8. No later than April 30, 2018, DOGM will transfer all funding held in the interim surety into the long-term treatment account.
9. No later than May 31, 2018, DOGM will calculate the difference between the interim surety and the amount necessary for the long-term account.
10. No later than June 30, 2018, Genwal must post 1/5 of the difference (calculated in step 8) to the long-term treatment account.
11. No later than June 30, 2019, Genwal must post 1/5 of the difference (calculated in step 8) to the long-term treatment account.

12. No later than June 30, 2020, Genwal must post 1/5 of the difference (calculated in step 8) to the long-term treatment account.
13. No later than June 30, 2021, Genwal must post 1/5 of the difference (calculated in step 8) to the long-term treatment account.
14. No later than June 30, 2022, Genwal must post 1/5 of the difference (calculated in step 8) to the long-term treatment account.
15. No later than July 1, 2022, DOGM will hold an adequate long-term financial assurance. The long-term account must have an interest bearing account adequate to fund the annual operation, maintenance, and reclamation expenses of the permanent facility.

Update: September 10, 2012

Post-Board Ruling Update: The Board process concluded on March 6th, 2012. The Board amended and vacated portions of Division Order DO-10A and required Genwal to post three years worth of operating costs to the bond. The Board decision acknowledges that the bond is inadequate; however, it does not ensure the Division holds adequate bond to assure the completion of the reclamation plan in the event of bond forfeiture based on existing conditions. Because this scenario was not anticipated in the original Action Plan, new sections entitled “Updated Problem Description,” “Updated Criteria for Resolution,” “Updated Action Sequence” and “Updated Schedule” have been added below.

Updated Problem Description: OSM may issue a new Ten Day Notice (TDN) to the Utah Division of Oil, Gas and Mining (DOGM) for violation of a state program bonding rule applicable to the Crandall Canyon Mine, an underground mine located on federal lands within Utah. The bonding rule provides that the amount of a performance bond to be posted by a permittee must be sufficient “to assure the completion of the reclamation plan” if the work has to be performed by the regulatory authority in the event of forfeiture. Here, the reclamation plan filed by the permittee, Genwal Resources, Inc., requires the maintenance and operation of a facility to treat noncompliant water discharged from the mine until treatment is no longer required. Under the terms of a cooperative agreement between OSM and Utah for regulation of coal mining operations on federal lands, Genwal’s bond is payable jointly to DOGM and OSM. In the event of forfeiture, both agencies are responsible for using the collected funds to assure the completion of Genwal’s reclamation plan. On November 9, 2009, OSM issued a TDN for DOGM’s failure to require Genwal to maintain an adequate bond to cover the costs of operating the water treatment facility for the long or perpetual term. DOGM agreed that treatment will likely be perpetual and responded to the TDN by ordering Genwal to increase its bond amount to cover such long-term or perpetual treatment costs. Based on DOGM’s order, OSM terminated the TDN. However, Genwal appealed DOGM’s order to the Utah Board of Oil, Gas and Mining (“Board”). At hearing on appeal, the parties focused on the issue of the likely duration of the noncompliant discharges, with Genwal arguing that it would be only a few years and DOGM arguing that it would likely be perpetual. Based on the evidence, the Board, on March 6, 2012, issued an order which found that (1) Genwal’s bond amount was inadequate, but, (2) DOGM’s order for increase was too high. The Board modified DOGM’s order to require that Genwal post a bond in an amount which covered operation of the water treatment facility for a period of only three years. OSM has reason to believe, especially from recent monitoring of the discharge water, that the Board’s order is in error and requires an amount inconsistent with the Utah bonding rule.

Updated Criteria for Resolution: DOGM (or OSM through oversight enforcement authority) must ensure that Genwal complies with the Utah program bonding rule by posting a bond amount which is sufficient,

upon forfeiture, to assure the completion of Genwal's reclamation plan for operating its water treatment facility until treatment is no longer required (which could entail perpetual treatment).

Updated Action Sequence:

1. Resolution of Board process.
2. OSM review of the Board decision and the current performance bond held for the mine.
3. OSM will determine whether the Board decision was lawful or fails to meet the bonding requirements set forth under the Surface Mining Control and Reclamation Act (SMCRA).
4. In the event OSM finds the Board decision was lawful, no further corrective action is required. OSM will inform DOGM of its findings. DOGM should then continue monitoring the water quality and treatment system and may petition the Board for a modification of the March 6, 2012 order if it deems necessary.
5. In the event OSM finds the Board decision fails to meet the bonding requirements set forth under SMCRA, OSM will issue a new Ten Day Notice (TDN) to DOGM.
6. DOGM will send its TDN response to OSM.
7. OSM will make a determination on DOGM's TDN response in accordance with 30 CFR 842.11(b)(1)(ii)(B).
8. In the event DOGM takes appropriate action or shows good cause for such failure, no further corrective action is required beyond Genwal's compliance with that DOGM action.
9. In the event DOGM fails to take appropriate action or show good cause or its response is arbitrary, capricious, or an abuse of discretion, OSM Denver Field Division (DFD) will conduct a Federal inspection and take Federal enforcement action to compel compliance.
10. Genwal will comply with the Federal enforcement action within the prescribed abatement period, with allowances made in the event of appeal.

Updated Schedule:

1. The Board process was resolved on March 6, 2012.
2. No later than December 1, 2012, OSM will complete its review of the Board decision and current situation.
3. No later than December 15, 2012, OSM will determine how it will proceed.
4. If OSM finds the Board decision was lawful, OSM will notify DOGM of those findings within two weeks – no later than December 31, 2012.
5. If OSM finds the Board decision failed to meet the bonding requirements set forth under SMCRA, OSM will issue a new TDN within two weeks - no later than December 31, 2012.
6. If a TDN is issued, DOGM will respond to OSM within ten days of receipt or within the timeframe required including any extensions granted (currently scheduled for January 30, 2013).
7. OSM will make its determination on DOGM's response within ten days of receipt or within the timeframe required including any extensions granted – (currently scheduled for February 11, 2013).

8. If DOGM takes action to compel compliance, Genwal will comply with any Division Order or enforcement action issued within the abatement timeframes specified therein or within the timeframe required including any extensions granted (projected to be no later than April 1, 2013).
9. If DOGM fails to take appropriate action or show good cause or its response is arbitrary, capricious, or an abuse of discretion, DFD will conduct a Federal inspection within one month of issuing its determination on DOGM's TDN response or within the timeframe required including any extensions granted (projected to be no later than March 11, 2013).
10. Genwal will comply with the corrective actions required through any Federal enforcement action issued within the prescribed timeframe for abatement – no later than June 11, 2013, with allowances made in the event of appeal and extensions (see 30 CFR 843.12(b)(4) which prohibits abatement timeframes from exceeding 90 days).

Target completion date: June 11, 2013