

IMCC to Hold 2016 Annual Meeting in Lake Placid, New York

The Interstate Mining Compact Commission (IMCC) will hold its 2016 Annual Meeting in Lake Placid, New York April 17 - 20 at the Mirror Lake Inn. Attendees will be welcomed during a casual opening reception the evening of Sunday, April 17.

On Monday morning, April 18, guest speaker Janice Schneider, Assistant Secretary for Land and Minerals Management in the U.S. Department of Interior will address the Compact. Immediately following her remarks a meeting between the IMCC member states and the Office of Surface Mining will take place. A roundtable discussion luncheon is scheduled at Noon where attendees will engage in informal discussions on several issues of interest, followed by a General Session in the afternoon. Afternoon speakers and topics include: "Mining History of the Adirondacks", presented by Dr. William Kelly, New York State (NYS) Geologist Emeritus and Director of NYS Geological Survey (Retired); "Applications of the Forestry Reclamation Approach" presented by Dr. Michael French, Director of Operations for Green Forest Works and Forester with The American Chestnut Foundation; and "Social Cost of Carbon" presented by Jonathan Hall, Director, Alabama Surface Mining Commission. IMCC's Finance and Administrative Committee will meet at 3:30 p.m. A casual cocktail hour is planned in the lobby bar area at the Inn for 6:00 p.m.

On Tuesday, April 19, a joint meeting of the Noncoal Environmental Affairs Committee and the Mine Safety and Health Committee will take place in the morning. Following a lunch break, a joint meeting of the Coal Environmental Affairs and Abandoned Mine Lands Committees is scheduled. Presentations of the 2016 IMCC awards will take place that evening during the Annual Awards Banquet (*see related articles on the three IMCC awards programs*).

IMCC's Resolutions Committee will meet on the morning of Wednesday, April 20. The IMCC Executive Commission Business Meeting will follow and conclude the Annual Meeting.

For more information, contact: Beth Botsis at 703.709.8654 or E-mail: bbotsis@imcc.isa.us.

IMCC Selects Recipients of Annual Minerals Education Awards

The Interstate Mining Compact Commission (IMCC) recently announced the recipients of its 2016 annual minerals education awards. Begun in 1999, the minerals education awards are presented each year in two categories: the mining awareness educator category, presented to a teacher or school from one of the 25 member states of the IMCC, and the public outreach category. This year two awards will be presented in the public outreach category. No educator awareness award winner was chosen for 2016.

The public outreach award is presented to an industry, environmental, citizen or other group, or to a state government body that has achieved excellence in one or more of the following categories: provided educational outreach in an innovative manner that increases the level of understanding in the community about mining and its impacts; promoted awareness of environmental stewardship associated with mining through active involvement of citizens; fostered cooperation and partnerships with diverse groups to achieve understanding; enhanced the understanding of issues associated with mining and natural resource development; and/or fostered public education

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Commission

Upcoming Meetings:

IMCC 2016 Annual Meeting

April 17 - 20, 2016
Mirror Lake Inn
Lake Placid, NY

For more information on IMCC Meetings as it becomes available, visit our website: www.imcc.isa.us and click on the "Conferences" tab. Some presentations from IMCC Meetings and Workshops can also be viewed on the website at the "Conferences" tab. Copies of IMCC's Compact Newsletter are available on the website by clicking on the "Publications" tab.

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through mine tours, visitor centers, community awareness days, career days, personnel volunteerism in the schools, maintaining adopt-a-school programs or education partnerships, or any other innovative initiative deemed deserving by the awards committee.

The minerals education awards will be presented at a banquet held in conjunction with the IMCC Annual Meeting April 17 - 20 in Lake Placid, New York.

The first winner in the public outreach category for 2016 is the Ohio Aggregates & Industrial Minerals Association (OAIMA) located in Gahanna, Ohio. OAIMA has developed an innovative and multi-faceted minerals education program that promotes awareness of the need for aggregate, rock and mineral resources. In 2012, OAIMA embarked on a partnership with the Miami County (Ohio) Park District. Initially the project provided book bags and educational rock box kits to children in area schools as a reward for completing the "Family Quest Nature Program," and later OAIMA helped to develop and participated in the park district's annual week-long "Hug the Earth" program. For one week in May each year children from local school districts arrive by bus in intervals throughout the day and each class rotates between offered activities. Often children who attend with their schools during the week choose to return with parents and families to participate in the activities again during the Saturday "Family Day" held at the end of the week-long program.

With guidance from the OAIMA Public Relations Committee and endorsement of the Association's Board of Directors, the new "Hug the Earth" education program was developed to be both informative and entertaining for participants. OAIMA supports and funds the efforts and provides materials and member volunteers who freely donate their time. New and innovative activities are used to engage children in the learning process while having fun. The "Rock and Mineral Dig" activity involves creating several piles of natural sand in which rocks and minerals mined in Ohio are interspersed. Children are given buckets and shovels and given an allotted amount of time to "mine" for rocks and minerals. With the help of OAIMA and park district volunteers, the children use an identification panel developed by OAIMA to identify the rocks and minerals they collected and learn how they are used in their daily lives. The children are allowed to keep the buckets and the minerals they collect.

OAIMA members and volunteers present an interactive skit as part of the "Rock On! Or, If it Can't be Grown it has to be Mined" activity. The children interact with the "actors" in identifying which materials found in the home are mined or grown. The activity injects backdrops, sound effects and humor to keep the kids entertained and engaged as they participate.

A new interactive PowerPoint activity titled, "What's Under the Rock?" was added in 2015 and features "Roxie the Dog" to help children distinguish between items that come from mining or are grown. This activity was developed to be portable and less labor intensive, making it potentially useable for other events and classrooms as well.

OAIMA also collaborates with Wright State University's Departments of Earth and Environmental Sciences and Teacher Education on Project STONE (Science Teaching for Ohio's New Economy), a nationally recognized award winning professional development program. Teachers of grades K-12 attend a two-week summer workshop where they learn how to infuse earth science content into their inquiry science lessons and other curriculum; what career opportunities are available for students in the fast growing field of earth science; how to connect with professional earth science practitioners for classroom resources, career days and field experiences for teachers and their students; and how to develop, assess and report on an inquiry-based activity the teachers develop for their classroom during the academic year. Participants can receive three semester hours of graduate credit through the university at a cost, or non-credit clock hours at no charge. Free lodging for participants living more than 60 miles from the campus is provided, and the teachers receive a stipend for participating.

A 2016 Public Outreach Award will also be presented to Michael C. Korb, P.E. Mike serves as Environmental Program Manager in the Wilkes-Barre Office of the Pennsylvania Department of Environmental Protection's Bureau of Abandoned Mine Reclamation. Mike has enjoyed a distinguished 50 year long career working in the mining and mine reclamation field and has been committed to public outreach and education on a wide range of mining and reclamation issues. He has been a dedicated and involved member of organizations such as the Society of Mining Engineers (SME) that have focused significant efforts toward educating the public and youth about how our lives have been enriched due to the many commodities and products that require mined resources. Mike has always strived to conduct mining and mine reclamation work in the most technically and scientifically sound manner that minimizes mining's impact on the environment and restores mined sites to as high a use as possible following reclamation. He is passionate about sharing with others about his successes and failures in order to enable them to learn from his experiences. Mike also has a passion for mining history and has worked to preserve mining's legacy near his home in Pennsylvania's Anthracite region. As Mike's retirement approaches, it is especially appropriate to present this individual award as an acknowledgment of his distinguished lifetime commitment to educating the public about the benefits and necessity of mining in order to maintain our way of life, and in teaching others how mining, when done responsibly, can be completed with minimal impacts to the environment and the local community.

A few of the many highlights of Mike's accomplishments in minerals education include: outreach and talks with local communities about what a new mine or expansion of an existing mine would do for the community; involvement in community meetings about mining projects; providing talks to civic and environmental groups and public meetings; authoring several technical papers for various entities, including the Pennsylvania Governor's Energy Commission, the Northeast Pennsylvania Economic Development Council, the Juran Institute, the National Association of Abandoned Mine Land Programs, and the Society of Mining Engineers, among others; involving residents living near a mine in a collaborative effort with public and mine employees to construct a National Wildlife Federation Certified Wildlife Habitat on a reclaimed mine area, and to construct a park and picnic area in a subsidence area unsuitable for building homes; donating old maps and drawings and obsolete mining equipment to universities, museums and historical societies; donating large pieces of coal for parks; starting a library in a community center; engaging in mining and environmental heritage development with the Delaware and LeHigh National Heritage Corridor, the Susquehanna Greenway Partnership, and numerous local and regional watershed, historical, and civic organizations; organizing a number of community heritage and environmental conferences; instructing sessions on coal mining and the environment at Kings College in Wilkes-Barre; serving in outreach efforts through SME, such as speaking to civic, community, heritage and environmental groups; serving as a Pennsylvania Anthracite SME Outreach Volunteer at several Boy Scouts of America Merit Badge Colleges for the geology and "Mining in Society Merit Badge"; serving as an SME Outreach Volunteer at the Anthracite Heritage Museum and at environmental, heritage, and industry conferences; serving as a technical instructor for the Office of Surface Mining National Technical Training Program; and a myriad of other outreach and educational endeavors.

Mike currently works for the Pennsylvania DEP's Bureau of Abandoned Mine Reclamation, where he has served for the past eight years. During that time his public outreach has focused on informing people about the good work the state's Abandoned Mine Land (AML) Program does in reclaiming AML sites. His speaking engagements include presentations highlighting award-winning AML projects and the "Stay-Out-Stay-Alive" campaign to advise people of the many hazards associated with abandoned mines. Through his engagement in outreach with local colleges and local and national student-teacher and environmental conferences, Mike has shed a positive light on the Commonwealth of Pennsylvania and its AML program.

Mike has received many awards and recognitions over the years, and most recently, in May of 2015, he was nominated to be elevated to the Grade of Distinguished Member of the National Society of Mining Engineers.

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IMCC Selects Recipients of National Reclamation Awards

The Interstate Mining Compact Commission (IMCC) recently announced the recipients of its annual national reclamation awards. Named after the charter executive director of the Compact, the Kenes C. Bowling National Mine Reclamation Awards are presented each year to mining operations in the coal and noncoal categories that have demonstrated excellence in reclamation based on achievement in five categories: compliance; contemporaneous reclamation; drainage control; bond release (or reclamation success); and innovativeness. The awards will be presented at a banquet held in conjunction with the IMCC Annual Meeting, April 17 - 20, 2016 in Lake Placid, New York.

The 2016 winner in the coal category is the Paramount Coal Company Virginia, LLC, Hawks Nest Surface Mine, Permit 1101903, located in Buchanan County, Virginia. The 2016 winner in the noncoal category is Wyo-Ben, Inc., Pit 138L, located in Greybull, Wyoming. An honorable mention will also be presented in the coal category to Solar Sources, Inc., Cannelburg Mining Complex, located in Daviess County, Indiana.

Paramount Coal Company Virginia, LLC's Hawks Nest Surface Mine, an operating subsidiary of Alpha Natural Resources, is an active permit, although no mining is being conducted at this time. The site exhibits Paramount's careful handling of the environment and the company's commitment to join the mission to properly reclaim abandoned mine properties. Paramount's vision for the future is also demonstrated by the company's plan to include reclamation for a major road building project on the permit that could change the economic face of southwest Virginia. This area surface and auger mining operation permit was approved for mining nine coal seams. The permit consists of 1290.3 acres. A total of 1167.38 acres have been disturbed and presently 1074.22 acres have been reclaimed. The Virginia Department of Transportation (VDOT) is currently preparing road profiles and obtaining the property necessary to complete the construction for the Coalfields Expressway and State Route 19 interchange on the western end of the permit. The remaining surface mining on the permit is located in the area where this interchange will be constructed. All other mining disturbances have been reclaimed and currently 616.74 acres remain on the permit. To date, 1306.9 acres have been released to Buchanan County and VDOT. Buchanan County Public Service Authority is presently installing water and sewer lines on released permitted acres from the Poplar Gap Park to the Coalfields Expressway. The company's operations have been models of excellent compliance with state and federal regulations.

Mining of the permit was complicated due to the many land uses and agencies involved. The Virginia Department of Mines, Minerals and Energy's (VA DMME) Division of Mined Land Reclamation (DMLR), the federal Office of Surface Mining (OSM), Buchanan County, VDOT, VA DMME's Division of Mineral Mining (DMM), and private landowners were represented. Contemporaneous reclamation has been an integral component to implement the diverse land uses. Public roads constructed on the site consist of a portion of the Coalfields Expressway, the Route 460 intersection with the Coalfields Expressway, and the connector roads for Buchanan County. Inspectors from DMLR, private engineering consulting firms, and VDOT have worked together to plan, construct and inspect the operation. Through this public-private partnership, Buchanan County and the Commonwealth of Virginia will save millions of taxpayer dollars in synergistic mining and road construction. Pre-split highwalls for public roads and spoil calculations for other land use configurations added to the complexity of the mining process. The Coalfields Expressway (U.S. Route 121) will not only provide a modern, safe and efficient highway through the coalfields region of southwestern Virginia, but will also serve as an economic lifeline that is expected to boost commerce and tourism for a region experiencing high unemployment and a declining population. Additional benefits to residents include: the development of industrial sites, residential areas and recreational areas made possible due to the construction and improvements of the public roads; enhanced capability for further development along these roads; development of agricultural and forest lands on the mining permit; wildlife habitat; and installation of gas wells and gas pipelines. Through its support of reforestation and Arbor Day events, including allowing tree planting to occur on permit areas, Paramount has also helped instill conservation and stewardship ethics to the youth of Buchanan County.

Approximately 4500 feet of stream restoration (mitigation) has been completed on the permit in the left fork of Greenbrier Creek with an additional 4000 feet to be completed in the future. The pools and riffles are constructed incorporating natural stream restoration to enhance water quality and habitat. Natural stream restoration is a relatively new application for mining and reclamation in the east. To date, the restored streams are functioning ideally. The company is monitoring stream restoration and biological testing is on-going. Paramount planted native riparian tree species along the stream restoration areas. Drainage control practices included sediment ponds constructed in the hollows and bench basins located on the coal seam elevations. Planting of trees was accomplished in the same year reclamation was completed immediately improving the forest land use. Seeding practices and vegetation are also outstanding. Experimental practices for road cuts were planned, approved, monitored and successfully utilized for establishing the roadways and bond was released in a timely manner as increments were completed. The Virginia Department of Game and Inland Fisheries and the Rocky Mountain Elk Foundation have released elk in this area, which are often seen on the reclaimed permit. There is growing interest in tourism potential for elk viewing and plans are underway at the nearby Breaks Interstate Park to establish elk viewing tours in 2016. The permit and adjacent areas are ideal sites for these activities.

Throughout the history of mining and reclamation in Virginia, perhaps no permit has been mined and reclaimed for as many land uses and opportunities for public benefit as at this site. Paramount's exemplary reclamation exceeded requirements to achieve a veritable showcase of reclamation and land stewardship. The VA DMME also nominated this permit for both the National Association of State Land Reclamationists and Office of Surface Mining reclamation awards programs in 2015, from which it garnered two previous national awards.

IMCC will also be presenting an honorable mention in the coal category this year to Solar Sources, Inc. for its Cannelburg Mining Complex. This truck/shovel surface coal mining operation is comprised of six contiguous permits all reclaimed to a variety of land uses encompassing approximately 7100 acres in total. The area is primarily agricultural and characterized by rolling topography, and the reclaimed croplands are utilized by family farms supplying local and regional grain and hay markets. In addition, two areas of pre-law spoils have been eliminated and the land restored to current Surface Mining Control and Reclamation Act (SMCRA) standards, rather than to the lesser standards allowable under regulations pertaining to pre-law areas. Reclamation to cropland capable standards yielded acreage that is suitable for multiple land uses, including: wildlife and forestry; replacement of forest acres to enhance the natural landform and to provide a renewable supply of high quality hardwoods to the local sawmills and regional veneer mills, which also utilized logs from the pre-mining forested areas; agricultural lands; housing development near post-mining recreational lakes; a popular motocross track; construction of a commercial fiberglass tank manufacturing facility; and reclaimed forest, wildlife and permanent water areas that are being used by hunters, fishermen and outdoor enthusiasts.

Wyo-Ben, Inc., the 2016 winner in the noncoal category for its Pit 138L, is a privately held bentonite mining company that has been in business for over 60 years. Of the original 211 acres approved for this permit, 208 have been reclaimed and 147 have been bond released by the Wyoming Department of Environmental Quality, Land Quality Division (WDEQ/LQD). Mining of the pit began in 1996 and all mining has been completed. The final phases were seeded last year. Pit 138L is located approximately seven to ten miles northwest of Lovell, Wyoming. Typical environments of the area include high desert vegetation such as salt desert shrubs. The climate is typical of cold desert regions of the intermountain west with average annual precipitation of 6.79 inches, and an average annual temperature of 44.5 degrees Fahrenheit. Over fifty percent of the yearly precipitation occurs in April, May, June and July. The annual average snowfall is 16.3 inches with an average of 124 frost-free days per year.

Mining of bentonite occurs in shallow (30 – 45 foot highwall), relatively narrow surface strip mines. A typical pit is between two to three miles long, with several phases per pit. A typical phase of a pit has dimensions of 600 feet long by 200 feet wide including associated disturbance to accommodate stockpiles. Wyo-Ben utilizes a castback mining technique in the mining/reclamation process which allows reclamation to remain concurrent with the mining of the bentonite. Additional advantages of castback mining include reduced material handling, the live spreading of soils, opportunities for establishing varied topography in final reclamation, and reduced disturbance. When the first phase of a pit is started, overburden from that phase is contoured adjacent to the open hole. Once that phase has been mined, overburden from the second phase is cast into the first phase and contoured in preparation to receive soil from nearby soil stockpiles with seeding to follow, generally in the fall of the year. This process continues until the last phase of the pit is mined, at which time highwall reduction is employed to reclaim the final phase of mining, since no subsequent material is available for fill.

As a common reclamation practice, Wyo-Ben contours overburden to match surrounding topography during the reclamation process, and pit 138L is a good example of this technique. The company took extra time and incurred extra expense in order to establish reclaimed topography that matches the surrounding lands. This resulted in varied topography establishing microenvironments that aid in the establishment of varied and desired native vegetation, provision of varied habitat for wildlife that use the area, a more aesthetically appealing landscape for recreational visitors, and it allows for the creation of stable, meandering reclaimed drainages that ecologically tie into native drainages. Where deep drainages occurred in a mining area, even though it would be more economical to mine through the drainages rather than stopping the mining process and starting again on the other side, Wyo-Ben chose to take the more expensive route of avoiding the drainages for ecological purposes, including: keeping a stabilized drainage in place that will substantially reduce erosion compared to a reclaimed drainage; allowing vegetation in the drainage to act as a native seed source for the reclaimed area adjacent to it; and providing aesthetics to the adjacent reclaimed areas. In some instances where drainages were mined, rocks were placed in the reclaimed drainages for stabilization.

The castback mining technique allows the utilization of live soils in the reclamation process, as occurred to a large extent during the reclaiming of Pit 138L. This resulted in the reestablishment of several native perennial forbs and shrubs from residential soil seed. Other advantages of utilizing this technique include reduced soil handling, retaining soil microbes, less disruption of natural C and N cycles, reduced need for stockpile area, less damage to soil physical structure, and increased surface microsite roughness from vegetation. Wyo-Ben also routinely separates topsoil from subsoil that is of poorer quality relative to vegetation establishment. Subsoil, and when available other deeper growth medium, are spread first on contoured overburden in preparation for seeding. Topsoil is then spread on top to prepare the best possible environment for vegetation establishment. This practice, when combined with the other techniques utilized, led to successful establishment of vegetation and resulted in excellent vegetation cover at the reclaimed pit.

Lands prepared for seeding were seeded each fall, and occasionally in the early spring, with a mostly native seed mix containing a variety of grasses and shrubs. Seeding was completed using a Pitter-Broadcast Seeder that produces a series of one foot by one foot dimension pits into which seed is broadcast. This method results in microenvironments being created that provide many benefits to seed germination and vegetation establishment. Each pit is a small water collection area that provides more water to the seeds in the pit than if they were sitting on a flat seedbed, which is a great advantage in the arid environment. The configuration of the pit also acts as a soil trap, collecting wind-blown soil from the air and depositing it on seeds, which provides cover and a seed-soil contact situation. The water holding capacity of the pits reduces soil erosion from water runoff.

Wyo-Ben, Inc. uses drill trucks to determine the quality for bentonite pre-mine during exploratory drilling. This practice allows the company to reduce its disturbance footprint by avoiding the unnecessary mining of bentonite that will not meet quality standards. It also allows Wyo-Ben to leave undisturbed areas where drilling has determined that mining should not occur. Leaving native islands provides a native seed source for surrounding reclaimed lands, aids in the stabilization of reclaimed lands, and adds to the aesthetics of the reclaimed pit. Pit 138L includes several of these native islands.

The combination of practices used by Wyo-Ben to reclaim the pit can also be utilized by other mining companies in the intermountain west where climatic conditions create challenges to successful mine reclamation. The result of these practices is reclaimed land that is supporting the pre-mined land uses of wildlife habitat and livestock grazing.

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IMCC Selects Recipients of First Annual Mine Safety and Health Training Awards

The Interstate Mining Compact Commission (IMCC) recently announced the first recipients of the Compact's new mine safety and health training awards. Each year, beginning in 2016, the mine safety and health training awards will be presented in two main categories, a state award and an industry award, each including four subcategories: coal surface, coal underground, metal/nonmetal surface, and metal/nonmetal underground, for a potential of up to four awards to be presented annually in each of the two categories. The awards were established to recognize excellence in mine safety and health training programs and materials.

Nominations are considered based on the following criteria: the training material is relevant to solving a safety problem or promoting a safer work environment; the training material can be applied on the job and for specific mining situations, and it addresses specific needs with information that is timely and positively impacts employee and workplace safety; the training material is easy to use; the training material is engaging and able to keep the attention and focus of trainees, and it promotes employee awareness of workplace safety concepts and issues, while being clear and easily understood by employees; and the training materials created are unique and innovative. A safety record criteria is also applied to nominations in the industry category, requiring the nominee company to provide Total Incident Rate statistics and calculations for the previous calendar year as part of their nomination packet. Consideration is given as to the size of the mine.

For 2016, four mine safety and health training awards will be presented, including one in the industry category and three in the state category. The awards will be presented at a banquet held in conjunction with the IMCC Annual Meeting, April 17 – 20 in Lake Placid, New York.

The winner in the industry category for coal surface mining for 2016 is Extra Energy Inc., Virginia Point Surface Mine, located in Tazewell County, Virginia.

Extra Energy, Inc.'s comprehensive training program includes videos, safety talks, PowerPoint instruction, printed materials, classes, and more. The safety program includes several programs that actively involve all employees at the mine. It evolved from earlier versions into what is now called SMART (Safe Miners Acting Responsibly Together). The program logo depicting two mountain climbers attempting to reach the mountain peak was designed to remind employees that it takes teamwork and perseverance to achieve zero lost time accidents.

The SMART procedure consists of first identifying problems or hazards that may have contributed to an incident, or could contribute to an incident in the future. The next step is to convene a team of safety specialists, mine management, and employees to conduct a risk assessment or perform a root cause analysis. The team will then score the risk, utilizing a matrix developed by the company, and determine whether sufficient controls exist. If it is determined that sufficient controls do exist, the process reverts to the "PLAN, DO, CHECK, ACT" process: PLAN your work, DO the job, CHECK the results, and ACT if necessary. If sufficient controls do not exist, then a SMART procedure will be enacted. The subject matter experts (safety specialists, employees, management) will conduct a site visit, determine what deficiencies are present, and then develop procedures (training, inspection requirements, controls, and health and safety considerations) for distribution to operations for review and comment. Once feedback from operations has been addressed the procedures will be published and the "PLAN, DO, CHECK, ACT" process enacted.

As evidence of the effectiveness of the training program, the Virginia Point Surface Mine, located in Tazewell County, Virginia has an exceptional safety record. The total incident rate for calendar year 2015 was 23,438 total hours worked with zero reportable injuries and zero reportable illnesses. The mine has worked 6.5 years without a lost time accident and has accumulated 1.3 million man hours and produced over 3 million tons of coal since the last lost time accident.

The first winner in the state category for coal surface mining for 2016 is the Virginia Department of Mines, Minerals and Energy's (VA DMME) Division of Mines.

The VA DMME Division of Mines developed the "Surface Foreman Continuing Education Training" program for coal surface mining to keep mine foremen up to date on current safety issues and accident trends in the mining industry, on the premise that the foreman is the person who has the most impact on safety at a surface coal mine. The training program consists of a comprehensive PowerPoint presentation along with several supplemental videos on applicable topics along with classroom exercises that engage the audience. Questions are encouraged. The training objectives are to: familiarize surface foremen with their responsibility and accountability; increase the knowledge and skill level of foremen with special emphasis on mining near gas wells and lines, safe haulage practices, flyrock, blasting records, ground control plans, preshift/onshift examinations, and highwall examinations; upgrade foreman training on accident awareness and accident prevention; and familiarize foremen with substance and alcohol abuse and state and federal legal considerations. Surface foremen are required to receive four hours of continuing education training every two years. The training program is updated annually. Approximately 383 surface foremen received training during the 2015 training year.

The second winner in the state category for coal underground mining for 2016 is also the Virginia Department of Mines, Minerals and Energy's (VA DMME) Division of Mines.

VA DMME's Division of Mines developed their "Underground Foreman Continuing Education Training" program to include similar elements to the surface foreman training noted above, using a comprehensive Power Point presentation supplemented by associated videos. In addition, electrical "hands-on" practical skill training stations were built and are being used to increase the safety of mine electricians while testing and troubleshooting electrical circuits and to increase their electrical technical knowledge.

The main objectives of the training program include: familiarizing first class mine foremen with their responsibility and accountability; increasing the technical knowledge and skill level of foremen with special emphasis on electrical safety, roof and rib control safety, remote control miner safety, mine emergencies, substance abuse, and dust control examinations; upgrading foremen training on accident awareness and accident prevention; and familiarizing foremen with substance/alcohol abuse. The training program is updated annually. The 2015 program was devoted specifically to the issues of foremen legal responsibility and accountability, preshift and onshift examinations, actions for excessive methane, gas well and gas line safety, substance abuse training, MSHA Part 48 training, and equipment dust control parameters training. Approximately 1,023 underground foremen received training during the 2015 training year.

VA DMME, Division of Mines also continued to implement the Small Mine Safety Service (SMSS) during 2015. SMSS is a complete training and technical assistance program that serves the needs of small coal mines that do not have access to quality, up-to-date training and professional technical assistance. SMSS was implemented beginning in 1995 with guidelines approved by the Virginia General Assembly (VGA). A fee was established by the VGA of \$50 for each employee and participation is voluntary. Program services include classroom and site-specific education and training classes as required by VA's Division of Mines and the Mine Safety and Health Administration, on-site job safety observations, on-site safety talks, and follow-up on-site monitoring to evaluate training effectiveness. Since 1995 over 200 small mines have been served by the program, which has resulted in traditionally lower violation rates (state and federal), fewer serious accidents, and fewer (federally classified) lost-time injuries. Ten of the twelve mines served during the past three years received coal mine safety awards for having zero lost-time accidents.

The final winner in the state category for metal/nonmetal surface mining for 2016 is the Colorado Division of Reclamation, Mining and Safety.

The Colorado Division of Reclamation, Mining and Safety, assisted by the Colorado Stone Sand & Gravel Association's (CSSGA) Safety Committee members, developed an innovative and interactive DVD/flash drive program for their Part 46 Annual Refresher Training Program. The training is fresh, relevant, engaging and meets the Mine Safety and Health Administration (MSHA) training requirements. This flexible, interactive program contains a menu of topics that provides instructors with a framework for designing their own site-specific training. The product was created as a follow-up to Colorado's "Part 46 New Miner Training" interactive DVD/flash drive program, which received an MSHA national award. The trainer can choose from 23 topics (modules) to build their own unique training that can easily be supplemented with relevant site-specific information. The modules can be used for a host of training types such as tool box talks, task training, special topic training, or training in areas where safety issues arise. Special emphasis is placed on important current issues such as miner's rights, "Rules to Live By" initiatives, workplace examinations and task training. The program is designed to be used either for a group or an individual and allows instructors or trainees to go at their own pace. Engaging features such as the "You Are the Inspector" hazard identification exercise and the "Mine Game," a jeopardy-like safety game, create excellent discussions and are interactive tools that allow trainees to learn from each other. "You Are the Inspector" contains three groups of 20 or more hazard pictures in which a group or individual identifies the hazards. Trainees then read the law that pertains to the violation. The "Mine Game" can be played by up to five groups or individuals. This interactive game is structured to have 5 - 9 safety questions behind each point square. A question is randomly chosen for that square when it is clicked on. Therefore, you never get the same question twice. The game can be used repeatedly without duplicating questions. The program also tracks the training conducted from year to year and a certificate of completion can be printed at the completion of any module to ensure recordkeeping is current. The Colorado Division of Reclamation, Mining and Safety is currently working on adapting the program to a web-based platform to increase accessibility from a range of types of media such as iPhones.

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WOTUS Remains Subject to Nationwide Stay as Sixth Circuit Claims Jurisdiction

On February 22, 2016, a three-judge panel of the U.S. Court of Appeals for the 6th Circuit ruled in a split decision (2 - 1), that it has jurisdiction to review challenges to the "Waters of the United States" (WOTUS) rule. The rule was issued by the U.S. Environmental Protection Agency (EPA) and the U.S. Army Corps of Engineers (Corps) and originally went into effect on August 28, 2015. It has since been challenged in lawsuits across the country. On October 9, 2015, the

same court concluded that petitioners challenging the rule had demonstrated a substantial likelihood of success on the merits and stayed the rule nationwide. A procedural question arose as to whether the appellate court has original jurisdiction to decide challenges to the rule or if such cases must first be brought in a federal district court. Two of the three judges on the panel concluded that applicable 6th Circuit precedent provided the 6th Circuit jurisdiction to hear the consolidated challenges to the WOTUS rule.

A petition was filed on February 29 for rehearing *en banc*, requesting that the court reconsider its decision on the jurisdictional issue. The nationwide stay remains in effect while the petition for rehearing is pending. The court's ruling on jurisdiction may effectively decide whether the nationwide stay remains in place. If the petition for rehearing is granted and the court ultimately decides it does not have jurisdiction, the stay will be lifted and the rule will immediately go into effect in all but 13 states (Alaska, Arizona, Arkansas, Colorado, Idaho, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, South Dakota, and Wyoming) where, in a decision related to a separate lawsuit, the North Dakota District Court had previously stayed the enforcement of the rule in August 2015.

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Obama Administration Announces Halt to New Coal Leasing While Review Underway

On January 15, 2016, the Department of Interior (DOI) Secretary Sally Jewell issued Secretarial Order No. 3338 requiring DOI to halt issuing new coal leases pending completion of a "comprehensive review to identify and evaluate potential reforms to the federal coal program." In a press release, Secretary Jewell cited environmental impacts and ensuring that American taxpayers receive a "fair return" on the resources as the rationale for the review. The action builds on "listening sessions" regarding coal leasing royalties that were held across the country in 2015. Secretary Jewell said DOI will also "improve transparency and administration of the federal coal program" through implementing a series of "good government reforms" to the program, including establishment of a publicly available database to account for the carbon emitted from fossil fuels developed on public lands, requiring the Bureau of Land Management (BLM) to publicly post online pending requests to lease coal or reduce royalties, and facilitating the capture of waste mine methane. DOI plans to release an interim report with conclusions from the scoping process about alternatives that will be evaluated by the end of 2016, and estimated the full review will take approximately three years.

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BLM Public Meetings Re. Coal Leasing Program Review

On March 24, 2016, the U.S. Department of Interior (DOI) announced that a series of six nationwide public meetings will be held to solicit input to inform the scope of the planned Programmatic Environmental Impact Statement (PEIS) review of the federal coal leasing program. The meetings are currently planned to take place in May and June in Casper, Wyoming; Grand Junction, Colorado; Knoxville, Tennessee; Pittsburgh, Pennsylvania; Salt Lake City, Utah; and Seattle, Washington. DOI called the hearings "the next step in the comprehensive review of the federal coal program to identify and evaluate potential reforms to ensure the program is properly structured to provide a fair return to taxpayers and reflect its impacts on the environment, while continuing to help meet the nation's energy needs." DOI will release final information on dates, times, and locations of the meetings in the near future.

Members of Congress Challenge Legality of Coal Leasing Moratorium

In a letter dated February 26, 2016 sent to Secretary of Interior Sally Jewell, thirteen members of the U.S. House of Representatives raised legal questions regarding Secretarial Order No. 3338 (Order) that poses a moratorium on new coal leases and prevents completion of pending lease applications until a Programmatic Environmental Impact Statement (PEIS) is conducted by the Bureau of Land Management (BLM). The Order references two previous moratoriums placed on coal lease sales as a basis for the action. The House members argued previous moratoriums were directly in response to two legislative actions by Congress: the enactment of the National Environmental Policy Act (NEPA) in 1970, and the Fiscal Year 1984 Interior Appropriations Act, that specifically called for a moratorium. The letter states the signees are unaware of any recent legislative action that would authorize a similar moratorium and asked the Secretary to provide the specific legal justification for her actions.

Secretary Jewell was also asked to provide an estimate of lost revenue to federal, state, and local governments due to the moratorium, as well as other economic impacts. The lawmakers cite the Order's claim that DOI has the statutory duty to ensure a fair return to the taxpayer, while pointing out that coal lease sales provide revenue to both the

federal and state governments through per acre fees as well as bonus bids on the coal reserve tonnage – revenue that is relied on in the states to fund education and community services. Some estimates claim this revenue to be as high as \$1 billion.

The Secretarial Order refers to the need for the moratorium in response to concerns raised in recent reports issued by the Government Accountability Office (GAO) and DOI's Office of Inspector General (OIG). However, the lawmakers' letter states that GAO and OIG investigations found no evidence of royalty evasion or underpayment in the Federal Coal Leasing Program. In addition, no recommendations were made for changes to royalty valuation methods. The letter asked Secretary Jewell to list all the actions that DOI had taken to address the recommendations of the reports.

The lawmakers' letter also cites the economic distress currently being faced by the coal industry in the United States and claims there will be significant compounding of these financial difficulties posed by the moratorium. The Secretary was asked to provide an estimate of the effects on employment in the coal industry and their suppliers downstream that would result from the moratorium.

"Coal Production on federal lands creates jobs, provides affordable electricity and generates important revenue for the federal and state governments" the letter concludes, and "As such, it is difficult to understand how efforts that preclude future coal production will ensure any return to the taxpayer, much less a fair return."

Representatives who signed the letter include: David McKinley (R-WV), Chairman of the Coal Caucus; Cynthia Lummis (R-WY); Ryan Zinke (R-MT); Kevin Cramer (R-ND); Doug Lamborn (R-CO); Mike Bost (R-IL); Brett Guthrie (R-KY); Hal Rogers (R-KY); Andy Barr (R-KY); Robert Latta (R-OH); Paul Gosar (R-AZ); Bill Johnson (R-OH); and Tim Murphy (R-PA). Republicans in the Senate have voiced intent to defeat the moratorium through distinct legislation or riders to the Senate energy bill.

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WildEarth Guardians Petition for Rulemaking Re. Self-Bonding

On March 3, 2016, a Petition for Rulemaking was sent by WildEarth Guardians to the Office of Surface Mining (OSM) in the Department of Interior (DOI) calling on OSM to amend self-bonding requirements for surface coal mines pursuant to the Surface Mining Control and Reclamation Act of 1977 (SMCRA). In its cover letter, WildEarth Guardians claims, "The Petition comes amid revelations that current rules are allowing regulatory authorities to accept self-bond guarantees from subsidiary companies that are technically insolvent due to the financial status of their parent corporations." The letter requests swift action by OSM, and alleges that interpretation and implementation of the current rules is allowing insolvent companies to self-bond contrary to SMCRA. In particular, the letter references \$1.4 billion in mine reclamation costs self-bonded by Peabody Energy as potentially "falling on the backs of taxpayers" as the company appears to be poised for bankruptcy.

The Interstate Mining Compact Commission (IMCC) recently formed a Bonding Work Group to look into issues related to bonding and financial assurance for both coal and noncoal mining. Despite the recent filings of Chapter 11 bankruptcies by two major coal companies, Alpha Natural Resources (August 3, 2015) and Arch Coal (January 11, 2016), according to the affected states, no taxpayer dollars have had to be used to date to meet the companies' reclamation obligations and reclamation is currently being conducted by the companies.

For more information, contact: Beth Botsis at 703.709.8654 or E-mail: bbotsis@imcc.isa.us.

Final 4(d) Rule for Northern Long-Eared Bat Applicable to Some Mining Permits

A 4(d) Rule for the Northern Long-Eared Bat (NLEB) was finalized by the Fish and Wildlife Service (FWS) and published in the *Federal Register* on January 14, 2016. The rule went into effect 30 days later on February 16. The rule was accompanied by a "Programmatic Biological Opinion on Final 4(d) Rule for the Northern Long-Eared Bat and Activities Excepted from Take Provisions" (PBO) and a related "Final Environmental Assessment" for the NLEB.

The interim 4(d) rule for the NLEB that was issued last May when the NLEB was listed as a threatened species by FWS applied incidental take provisions for the bat that were much broader than those in the final rule and allowed exceptions only in very limited activities, not including mining. However, mining is covered by the final rule. In areas of the country impacted by White Nose Syndrome (WNS), under the final 4(d) Rule incidental take is prohibited only if: it occurs within a known hibernacula; it results from tree removal activities that occur within 0.25 miles of a known, occupied hibernacula; or if a known, occupied maternity roost tree or other trees within a 150 foot radius from the maternity roost tree are cut during the pup season from June 1 through July 31. Where these prohibitions do not

apply, incidental take on a permit will be covered by the 4(d) Rule and related PBO. FWS developed a simple checklist form that can be used to qualify permits for the 4(d) Rule, which would eliminate the requirement to develop a Protection and Enhancement Plan (PEP) for a mining permit in cases where a permit meets the requirements for incidental take exceptions covered by the 4(d) Rule. Restrictions under the 4(d) Rule apply only to known habitat. Therefore, if a survey is done and there are no hits, incidental take on a permit qualifies under the 4(d) Rule. In those instances where the incidental take prohibitions do apply, the 1996 Biological Opinion kicks in and a PEP will be required for the permit.

The 4(d) Rule does not supersede Indiana Bat (IBAT) protection requirements. If IBATs are also present on a permit, the appropriate PEP will be required along with the NLEB 4(d) form. When assuming presence, a PEP will be required for the NLEB.

For more information, contact: Beth Botsis at 703.709.8654, or E-mail: bbotsis@imcc.isa.us.

Supreme Court Temporarily Halts Clean Power Plan

The U.S. Supreme Court granted several applications to stay the effectiveness of the U.S. Environmental Protection Agency's (EPA) "Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units" (the Clean Power Plan) on February 9 in a 5 - 4 split decision. Several states, utilities and other electric industry parties brought the petition before the U.S. Court of Appeals for the D.C. Circuit seeking the stay after the appeals court denied a similar request. For as long as the stay is in effect, the Clean Power Plan and all of its deadlines and requirements are suspended and will not have any effect unless and until either the rule is upheld at the D.C. Circuit and the Supreme Court denies any further appeal, or the Supreme Court takes up an appeal, but ultimately upholds the Clean Power Plan. For now, the states are not required to meet the September 6, 2016 deadline for submitting an initial state implementation plan. If the EPA eventually prevails and the Clean Power Plan is upheld, all related compliance deadlines will be readjusted.

"Critical Habitat" Designations Expanded by New FWS and NMFS Regulations and Policy

The U.S. Fish and Wildlife Service (FWS) and the National Marine Fisheries Service (NMFS) issued two final rules and a new policy on February 11, 2016 related to designating and protecting "critical habitat" under the Endangered Species Act (ESA). The rules and policy change, which came into effect as of March 14, increase discretion of the agencies to designate critical habitat that is currently unoccupied or infrequently used by the affected listed species, and amend the definition of "destruction or adverse impacts to critical habitat." The new policy explains the Services' criteria for making determinations regarding whether to exclude areas from critical habitat.

A new rule to revise the criteria for designating critical habitat (81 Fed. Reg. 7414) amends 50 CFR 424, which determines what habitat characteristics should be considered when designating lands as critical habitat. The rule emphasizes the importance of designating critical habitat as early as possible when a species is listed under the ESA. Under the new regulation the Services will also consider the designation of unoccupied areas as critical habitat from the outset, rather than first requiring a determination be made that the species cannot recover within areas where habitat is occupied at the time of listing, as was stipulated in the previous regulation. In the Preamble, the Services dismiss the earlier approach, stating "the provision is an unnecessary and redundant limitation on the use of an important conservation tool."

Significant changes in the rule include:

- Critical habitat "shall be proposed and finalized to the maximum extent prudent and determinableconcurrent with issuing proposed and final listing rules, respectively" (50 CFR 424.12(a); 81 Fed. Reg. 7432). Prior language implied that critical habitat be proposed, but not necessarily finalized concurrently with a species listing. This provision clarifies that the Services are required to designate critical habitat in a timely manner and removes the discretion whether to adopt critical habitat "only where appropriate."
- "Geographical area occupied by the species" is defined as "the geographical area which may generally be delineated around the species' occurrences, as determined by the Secretary (i.e. range)." The rule includes areas used throughout all or part of the species' life cycle, even if not used on a regular basis (such as migratory corridors, seasonal habitats, and habitats used periodically, but not solely by vagrant individuals). The rule states occupancy must be based on evidence of periodic use by the listed species during some portion of its life, but in cases where a species is difficult to survey or there is incomplete information the best available scientific data will be relied on. However, the rule also states that scientific data "may in some cases include indirect or circumstantial evidence," thus granting a great deal of discretion to the Services. Determination of whether unoccupied areas are essential will be made by considering "the life-history, status,

and conservation needs of the species," which may be further informed by "any generalized conservation strategy, criteria, or outline that may have been developed for the species."

- "Physical or biological features" are defined as "the features that support the life-history needs of the species, including but not limited to water characteristics, soil type, geological features, sites, prey, vegetation, symbiotic species, or other features. A feature may be a single habitat characteristic, or a more complex combination of habitat characteristics. Features may include habitat characteristics that support ephemeral or dynamic habitat conditions. Features may also be expressed in terms relating to principles of conservation biology, such as patch size, distribution distances, and connectivity" (30 CFR 424.02; 81 Fed. Reg. 7430). Under this definition the Services may also designate land that does not now contain, but may have once contained essential features as critical habitat, as long as they believe there is a "reasonable expectation of that habitat occurring again."

The second new rule (81 Fed. Reg. 7212) amends the ESA at 50 CFR 402.02, defining "destruction or adverse modification of critical habitat" as "a direct or indirect alteration that appreciably diminishes the value of critical habitat for the conservation of a listed species. Such alterations may include, but are not limited to, those that alter the physical or biological features essential to the conservation of a species or that preclude or significantly delay development of such features." The rule grants the Services authority to conclude that a federal action is likely to "destroy or adversely modify" designated critical habitat if the action results in an alteration of the quantity or quality of the essential physical or biological features of that habitat, or if the action "precludes or significantly delays" the capacity of that habitat to develop those features over time, and if the alteration will appreciably diminish the value of critical habitat for the conservation of the species. The Services' authority extends to consideration of other kinds of impacts to critical habitat as well, such as areas that have potential to develop and improve over time, relative to the pre-action condition, and eventually support a species' recovery. This applies to all features described in the new definition of "physical or biological features" contained in the new rule designating critical habitat, including habitat characteristics that support ephemeral or dynamic habitat conditions. The preamble to the rule states it is not anticipated that any alterations to the section 7(a)(2) consultation process will be required in light of the new rule, and previously completed biological opinions do not be reevaluated.

The new policy (81 Fed. Reg. 7226, February 11, 2016) advises how the Services will determine which areas should be excluded from critical habitat pursuant to Section 4(b)(2) of the ESA. The Services are given discretion for excluding an area from a critical habitat designation only in instances where the benefits of exclusion outweigh the benefits of inclusion, unless excluding an area will result in extinction of the concerned species. An area will not be excluded under any circumstances should it be determined it would result in the extinction of a species. Among areas that may be excluded are those covered by a permitted conservation agreement with assurances, a safe harbor agreement, or habitat conservation plan that meets all of the following conditions: instances where a permittee is properly implementing a conservation plan that covers the species for which critical habitat is being designated and that implementation is expected to continue, and the conservation plan specifically addresses habitat needs of the species. In addition, the Services will weigh tribal and military concerns heavily when making exclusion determinations.

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Senate Committee Holds Oversight Hearing Re. OSM's Stream Protection Rule

The Senate Environment and Public Works (EPW) Committee held an oversight hearing on February 3 entitled, "The Stream Protection Rule: Impacts on the Environment and Implications for Endangered Species Act and Clean Water Act Implementation." The majority, led by Chairman Inhofe (R-OK), focused on questions regarding the need for the rulemaking, the adequacy of the Office of Surface Mining's (OSM) efforts to consult with cooperating agency states who had signed Memoranda of Understanding (MOUs) related to development of the draft Environmental Impact Statement (EIS) related to the proposed rule, the effect the rule would have on coal production and coal-dependent state economies, and certain provisions of the rule related to the role of other federal agencies and environmental statutes, which they contended may overstep OSM's authority. The minority, led by Ranking Member Boxer (D-CA), focused its comments on the need to revise the regulations attending the Surface Mining Control and Reclamation Act (SMCRA), which it believes need to be updated based on new scientific studies, and the need to protect coal community citizens and their environment, particularly in Appalachia.

The first of two witness panels at the hearing consisted solely of Office of Surface Mining (OSM) Director Joseph Pizarchik, who testified on the need for the rule and described the process by which the proposed rule was developed. Director Pizarchik refuted claims that OSM failed to adequately consult with state regulatory authorities in developing the rule, denied that the rule would conflict with Clean Water Act (CWA) authority or state primacy, and defended the overall approach to developing the rule while calling it "balanced" with regard to environmental and economic needs as well as stakeholder input.

Three witnesses composed the second panel, including: Lanny Erdos, Chief, Division of Mineral Resources Management, Ohio Department of Natural Resources; Clay Larkin of Dinsmore & Shohl; and Matt Wasson of Appalachian Voices. Todd Parfitt, Director of the Wyoming Department of Environmental Quality was also scheduled to testify but was detained due to severe weather in the state.

Mr. Erdos testified on behalf of the state of Ohio and defended the state's positions on the proposed rule and the process of its development. He explained Ohio's role as a primacy program under SMCRA in regulating coal within its borders and discussed the excellent regulatory track record of the primacy states. In describing the relationship between OSM and the states, he called it once-cooperative but now one-sided with an increasingly obstinate OSM. He reviewed the history of OSM's limited efforts to consult with the states, and spoke of several attempts Ohio made to express their dissatisfaction with the process and request that OSM meaningfully reengage prior to the Stream Protection Rule (SPR) being proposed. Mr. Erdos concluded his testimony by laying out concerns held by the state with regard to specific contents of the proposed rule.

House Oversight Hearing Re. OSM's FY 2017 Budget Proposal

On March 23, 2016, the House Energy and Mineral Resources Subcommittee held a budget oversight hearing on OSM's Fiscal Year (FY) 2017 budget proposal, during which discussion largely revolved around the proposed Stream Protection Rule (SPR), particularly in relation to a directive in the 2016 Omnibus requiring the Office of Surface Mining (OSM) to reengage in a meaningful way with states by providing technical documents used in development of the proposed rule to any states who request them to be followed by individual meetings with the states. OSM Director Joe Pizarchik was the sole witness.

Chairman Lamborn (R-CO) delivered the majority's opening statement, criticizing OSM for having an "anti-coal" mentality behind their legislative proposals, for the "ill-conceived" RECLAIM Act, and for the agency's "perpetual rewrite of the Stream Buffer Zone Rule," which he called an "unproductive endeavor." Ranking Member Beyer (D-VA) provided the minority's opening statement, focusing on the need to update regulations to protect against the effects of mountaintop removal mining through the proposed Stream Protection Rule (SPR), as well as the need to accelerate distributions from the Abandoned Mine Land (AML) fund through the RECLAIM Act for AML projects that accomplish economic development to help coalfield citizens in the short term.

Representative Johnson (R-OH) reviewed the directive requirements contained in the Omnibus and noted the directive did not envision that a single meeting with all of the states would be satisfactory. He referenced a March 7 letter sent by the Interstate Mining Compact Commission (IMCC) to Mr. Pizarchik in response to OSM's letter to the states proposing to meet with them collectively during the IMCC's upcoming Annual Meeting as a way of fulfilling the required meetings per the directive. IMCC's letter expressed several concerns of the states regarding Mr. Pizarchik's proposal, among which included: the limited amount of time available for such a meeting due to the full itinerary and agendas previously set for the IMCC meeting, the inadequate amount of time for states to review the large volume of technical documents prior to the meeting, the need for individual state meetings to discuss concerns relevant to specific states, and the need for additional technical staff from the states and OSM to be involved in the meetings.

Rep. Johnson asked Mr. Pizarchik if the states would be given opportunity to contribute meaningfully, and whether meaningful revisions would be made to the SPR as a result. Director Pizarchik responded affirmatively adding, "if the states choose to provide it," and "if it is appropriate input." However, he maintained that the comment period would not be reopened. Rep. Johnson insisted that, based on the Administrative Procedures Act (APA), reopening the comment period would be necessary to make meaningful revisions to the rule based on state input, and that the Omnibus directive had already effectively reopened the comment period.

Mr. Pizarchik denied that allegations related to OSM's failure to engage the states were fair when questioned by Ranking Member Beyer. He reviewed various meetings held between OSM and the states during the process of developing the rule and said OSM had offered to reengage with the cooperating agency states through letters sent in October of 2015, but no states had responded. He also pointed to IMCC's March 7 letter declining to meet in conjunction with IMCC's Annual Meeting. When questioned as to the availability of reports and data pursuant to the Omnibus directive, he said the states had asked for a list, rather than the actual documents, and that all of the documents were available online. He said he had received "no indication" that the states considered OSM's efforts to reengage to be unsatisfactory.

Additional concerns were raised by Chairman Lamborn regarding the state consultation process, and in particular, the discourse available to the states in the various alleged "robust" meetings held between OSM and the states, which Director Pizarchik often cited. Chairman Lamborn noted that the meetings to discuss the states' comments on the SPR were limited to discussion of the rule itself, exclusive of the Draft Environmental Impact Statement (DEIS) and Regulatory Impact Analysis (RIA), with which the states expressed significant concern. Mr. Pizarchik responded that,

under various laws attending the process, including the APA, only cooperating agency states could discuss the DEIS and RIA and repeated that none of the withdrawn states responded to the invitation to reengage. Mr. Lamborn suggested the rule would never move forward if OSM continues to ignore the states input.

Referring to the Director's earlier comments that no states had expressed dissatisfaction with OSM's reengagement responses, Rep. Johnson inquired as to whether Mr. Pizarchik and received IMCC's March 7 letter expressly outlining the states' concerns, which he had. Rep. Johnson said some states are weary of working with OSM because past meetings have had very little substantive communication, and referred to the past efforts as a "one way street."

BLM Seeks Nominations for 2016 Awards Program

The Bureau of Land Management (BLM) is seeking nominations for the 2016 Reclamation and Sustainable Mineral Development Awards. The deadline to submit is April 12.

"These awards exemplify what the new legacy of mining has become in the West," said Michael Nedd, BLM Assistant Director for Energy, Minerals and Realty Management. "They highlight responsible mineral development that protects and restores the environment while meeting modern needs for these raw materials."

These non-monetary awards are intended to highlight some of the finest examples of responsible mineral resource development and illustrate the principles of sustainable development. The awards program also helps to promote successful ideas and practices that may be implemented at various locations throughout the nation.

The awards fall under five categories as described below:

- **The Hardrock Mineral Environmental Award** recognizes efforts in environmental stewardship. This category recognizes achievements demonstrating continuous or repeated efforts to successfully meet or exceed federal, state or local reclamation requirements with minimal oversight.
- **The Hardrock Mineral Community Outreach and Economic Security Award** recognizes projects that show concern for community responsibilities and the economic benefits of mineral development. This award recognizes successful coordination of projects with local and regional stakeholders. Projects that contribute to quality of life or show concern for a community's long-term health are also eligible.
- **The Hardrock Mineral Small Operator Award** recognizes environmental stewardship efforts of operators with fewer than 15 employees. Similar to the Hardrock Mineral Environmental Award, this award recognizes achievements demonstrating continuous or repeated efforts to successfully meet or exceed federal, state, or local reclamation requirements.
- **The Hardrock Mineral Director's Award** is for outstanding achievement in a particular area of sustainable development. The award will recognize an operator whose dedication and commitment to excellence has resulted in the use of a new or innovative design or technique that allows or enhances successful operations in technically challenging conditions or in critical environmental settings.
- **The "Fix A Shaft Today!" ("FAST!") Award** recognizes active participation in the FAST! Campaign, which is a partnership initiative aimed at eradicating unsafe abandoned mine land features, especially open mine shafts.

Nominations are to be submitted to the BLM State Office (Attention: Solid Minerals) that has jurisdiction in the state where the operation is located. It is anticipated that the presentation of the awards will take place in Las Vegas in the fall of 2016 in conjunction with MINExpo.

Mining companies, regulatory authorities, geologists, and members of the public may nominate operators or organizations in the noncoal solid minerals industries for an award. Nominations need not be limited to operations on land managed by the BLM. For detailed information on the nomination and selection processes, including the required format for nominations visit BLM's website here:

http://www.blm.gov/style/medialib/blm/wo/Communications_Directorate/public_affairs/news_release_attachments.P ar.92208.File.dat/2016%20Sustain%20Final.pdf .

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