



IMCC 2013 Annual Meeting Held in Cincinnati, Ohio

The Interstate Mining Compact Commission's (IMCC) 2013 Annual Meeting was held April 14 - 17, 2013 at the Hilton Netherland Plaza Hotel in Cincinnati, Ohio.

A welcoming reception took place on the evening of Sunday, April 14. Attendees heard several fine speakers during the General Session the morning of Monday, April 15. Speakers and topics included: "The Mushroom Farm AML/AMD Project" by Cheryl Socotch and Theresa McQuade of the Ohio Department of Natural Resources; "Joint Ohio State University/Ohio Department of Natural Resources Stream Quality Study" by Robert Baker of Ohio State University and Roger Osborne of B & N Coal Company; "Acid Mine Drainage Treatment and Recovery in the Monday Creek Watershed" by Nate Schlater of the Monday Creek Restoration Project; and "Education: The Key to Maintaining Our Public License to Operate - Lessons Learned in Ohio" by Patrick Jacomet of the Ohio Aggregates and Industrial Minerals Association. A joint meeting of the Noncoal Environmental Affairs and Mine Safety and Health Committees followed and continued after the lunch break.

On Tuesday, April 16, a meeting of the IMCC states with representatives from the Federal Office of Surface Mining opened the day. The IMCC Coal Environmental Affairs and Abandoned Mine Lands Committees met immediately thereafter. The Annual Awards Banquet was held that evening. IMCC's 2013 National Reclamation and Minerals Education Awards were presented at the banquet (see related articles later in this newsletter).

IMCC's Finance and Administrative and Resolutions Committees met jointly on the morning of Wednesday, April 17. The Executive Commission Business Meeting immediately followed and concluded the Annual Meeting.

The presentations given on Monday during the meeting will be added to IMCC's website in the near future under the "IMCC Meeting and Workshop Presentations" tab. For more information, contact: Beth A. Botsis at 703.709.8654 or E-mail: bbotsis@imcc.isa.us. Information about future IMCC meetings is also available on the IMCC website at: <http://www.imcc.isa.us/Conference.htm>.

Utah and Alaska Become Full Member States of IMCC

The Interstate Mining Compact Commission (IMCC) was recently pleased to welcome the states of Utah and Alaska as full members. Both states had previously been associate member states of the Compact.

The legislature of the state of Utah passed legislation (Title 40, Chapter 9, Sections 40-9-101 to 40-9-103, Utah Code Annotated 1953) to bring the state into the Interstate Mining Compact (IMCC) as a full member and Governor Gary R. Herbert signed the bill into law on April 1, 2013.

On April 15, 2013, Governor Sean Parnell of Alaska also signed a bill into law (SB 2) which the Alaska legislature had passed to bring the state into the IMCC as a full member.

As part of the process of bringing Alaska into the Compact, Gregory E. Conrad, IMCC's Executive Director, testified during several hearings before the House and Senate Resources and Finance Committees regarding SB 2. As part of

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Commission

Upcoming Meetings:

IMCC 2013 Mid-Year Meeting

October 2 - 3, 2013
The Westin Riverwalk Hotel
San Antonio, Texas

IMCC 2014 Annual Meeting

Dates/Location TBD
Reno, Nevada

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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his testimony, Mr. Conrad emphasized the importance for state governments to be heard in Washington, DC and to have their concerns understood. He pointed out that IMCC is recognized by many in Washington, DC for the organization's experience and expertise on mining issues. As an example, IMCC was requested to testify on behalf of the states at six congressional hearings before the U.S. House and Senate over the past couple of years on topics such as Good Samaritan protections for hardrock abandoned mine cleanups, stream protection requirements for surface coal mining operations, hardrock financial assurance requirements under CERCLA, legislation to enhance funding for states to reclaim abandoned coal and hardrock mines, and the impacts of the federal budget on state grant programs. IMCC has been consulted by the General Accountability Office and the National Academy of Sciences on a range of issues affecting the states. In addition, IMCC has been asked to participate on advisory bodies, steering committees and state/federal teams on which the Compact's member states generally serve in order to insure their direct input.

Mr Conrad also testified regarding the fact that IMCC is regularly called upon to provide its recommendations on a plethora of issues on Capitol Hill and before the federal regulatory agencies in Washington, DC. The recommendations are developed by the states at IMCC meetings and conference calls and are communicated in the form of resolutions, testimony at congressional and federal agency hearings, formal comments on agency rulemakings, congressional staff briefings and state/federal meetings and task forces.

Mr. Conrad emphasized the fact that, it is IMCC's ability to speak with one voice on common concerns that draws the states together and gives meaning to what the states and that it is the active participation and commitment of the full member states that carries IMCC forward in terms of both support and leadership.

Upon becoming full members, the states of Utah and Alaska will now have a formal vote in guiding the direction of the Compact. The states will also have opportunities to chair the various standing committees of the Compact and to help lead the Compact in directions that are favorable to all the member states. According to Mr. Conrad, "[Utah's and Alaska's] participation as full members will also be recognized and understood by those who work with the Compact on a regular basis, including both the Congress and the federal agencies, and this brings a greater degree of recognition and influence regarding [the states'] participation in our work. IMCC's presence in Washington, DC allows us to monitor federal agency and congressional initiatives that might impact state primacy programs as well as developmental constraints on mineral resources. I believe that Utah's and Alaska's participation in the organization opens avenues for the states to be heard in unique and valuable ways not otherwise available to them and to be supported with the clout that comes from 25 states speaking together as one voice. And since IMCC is focused solely on mining and related environmental protection issues with the federal government, we are able to delve deeper into the concerns that matter most to Utah and Alaska in this critical area of resource use and protection."

The other IMCC member states had the opportunity to formally welcome Utah and Alaska into full membership during the banquet held in conjunction with IMCC's 2013 Annual Meeting in Cincinnati, April 14 - 17.

IMCC Presents 2013 National Minerals Education Award in Cincinnati, Ohio

The Interstate Mining Compact Commission (IMCC) recently presented its 2013 annual minerals education award in the public outreach category at a banquet held in conjunction with the IMCC Annual Meeting, April 14 - 17, 2013 in Cincinnati, Ohio. Begun in 1999, the minerals education awards are presented each year. There are two categories: the mining awareness educator category and the public outreach category. Unfortunately, there were no nominations in the educator awareness category this year.

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 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 winner in the public outreach category for 2013 was the Utah Division of Oil, Gas and Mining for its "Mineral and Petroleum Literacy Program."

In 2010, John Baza, the director of the Utah Division of Oil, Gas and Mining approached Utah lawmakers requesting to use funds from the state's oil and gas conservation account to establish a public education program in support of mining and petroleum development. The 2011 Utah Legislature appropriated \$100,000 from that account to create

within the Division of Oil, Gas and Mining a "Mineral and Petroleum Literacy Program". The division contracted with a reputable polling firm to conduct a statewide survey to determine how much, or how little, Utahans knew about petroleum production and its uses; mineral mining; coal mining and energy; how the use of these natural resources impact their personal standard of living; and current regulations that ensure mined areas are reclaimed to appropriate post-mining land uses. Based on the outcome of that research, education programs began to be developed to target specific audiences to increase awareness of energy issues; petroleum exploration and production and its uses; mining and its benefits to society, including coal and minerals and how they are used; and the economic benefits to the state that are derived from petroleum and mineral production.

The division's first public outreach effort was an education program aimed at Utah's emerging generations, specifically 4th grade students, since the statewide school curriculum includes an earth science component at the 4th grade level. Additional public outreach efforts aimed at other audiences will be developed in the future as funding and time permit.

An integrated, hands-on science unit was created that incorporates learning about and understanding the rock cycle, and the geologic history of Utah and its oil, gas and mineral resources. The program is designed to educate students about the value of extracting minerals and oil and gas resources to benefit our lives while protecting the environment and acting as responsible stewards of the land. The Division of Oil, Gas and Mining's Mineral and Petroleum Literacy Program for schools was titled "Utah Geology for Utah Kids – Science That Rocks!" The program consists of: a four hour teacher instruction session with a qualified science instructor who walks the teachers through each aspect of the science unit and program, demonstrating key teaching and science lab learning opportunities; a 96 page teacher guidebook with background for teaching each unit, lab activities, resources online and off-line, handouts and a lesson outline for each day/week of the total science unit to span an eight week period; a 130 page student lab book containing factual data, writing activities, graphing, lab activities and personal application; a classroom kit for each teacher that contains mineral specimens and all materials necessary to conduct 22 lab activities; and a website which was created as a support vehicle for the teachers and students which contains information about oil, gas and mineral resources, and a video demonstrating each lab activity.

A pilot program was conducted in late spring 2012 with teachers in several school districts throughout the state. The program for 2013 recently concluded with 152 fourth grade teachers in nine school districts statewide receiving training. The program is built around the core curriculum as established by the State Board of Education. Supporting activities are designed to help students understand that our modern society depends upon the extractive industries responsibly developing essential natural resources. Other activities help them understand the processes of mining and oil and gas extraction and how the land is later reclaimed. The program includes several ethical discussions of issues surrounding the development of natural resources. The Mineral and Petroleum Literacy Program is a campaign to provide factual information to the public to aid them to better understand natural resource issues.

For further information about the awards, contact Beth A. Botsis, Director of Programs, IMCC at 703/709-8654, fax 703/709-8655, or email: bbotsis@imcc.isa.us

IMCC Presents 2013 National Reclamation Awards in Cincinnati, Ohio

The Interstate Mining Compact Commission (IMCC) recently presented its annual national reclamation awards at a banquet held in conjunction with IMCC's Annual Meeting, April 14 - 17, 2013 in Cincinnati, Ohio. 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 2013 winner in the coal category was the Cypress Creek Mine of Vigo Coal Operating Company, Inc. located in Warrick County, Indiana. The 2013 winner in the noncoal category was Greybull Bentonite Mine of M-I SWACO (a Schlumberger Company) located in Big Horn County, Wyoming. The 2013 winner of the Floyd G. Durham Special Recognition Award for a Small Operator was Continental Coal, Inc. for its Cottonwood Creek Mine located in Bates County, Missouri.

The Cypress Creek Mine is a truck/shovel, surface coal mining operation encompassing some 1,450 acres with an estimated total production of over 13 million tons. The operation was the first surface mine in southern Indiana to incorporate highwall mining with conventional surface mining, including the use of a CAD generated digital terrain model and deployment of Caterpillar Company's CAES machine guidance GPS system. Together, these technologies allowed for the development of a comprehensive grading plan that resulted in optimal grades for prime farmland and other land uses and the reestablishment of drainage patterns, particularly where downstream flooding from old mining areas had been a problem. The combination of established farming methods, current technology and innovative reclamation techniques and design enabled Vigo Coal to return mined cropland to productivity levels greater than

those before mining. Corn yields increased by 25% and soybeans by 18%, with an overall 87% success rate for productivity target yields. In addition to eliminating downstream flooding, community benefits included restoration of derelict county roads and enhanced property values. The minesite also provided opportunities for outdoor classroom activities for a local middle school and the evaluation of soil handling techniques by the University of Illinois.

IMCC also presented an honorable mention to Bridger Coal Company for its Jim Bridger Mine Complex located near Rock Springs, Wyoming for its use of geomorphic design methodology. The innovative approach created a long-term, stable, maintenance-free land surface that provided topographic diversity, thereby enhancing wildlife and plant communities. Through its construction of natural topography using a stable fluvial geomorphologic design, the company was able to recreate an ephemeral stream system in the reclaimed mine spoils that is in balance with the upstream and downstream hydrologic systems relative to both water quantity and quality. In addition, reclaiming spoils in a manner that imitate the diverse native topography has created a habitat where native wildlife is abundant both on and off the minesite, even during ongoing mining operations.

Since the 1950's , M-I SWACO (a Schlumberger Company) has affected over 5300 acres for the production of bentonite clays using a cast-back surface mining operation at depths of 25 to 40 feet. Among the challenges faced by the company in the Big Horn basin are an eleven-year average rainfall of 5.04 inches, sodic soils and an explosion of invasive weeds, all of which required the use of several innovative approaches to achieve reclamation success. Based on over a dozen years of research and monitoring, M-I SWACO has utilized a combination of reclamation techniques including suitable cover for mine spoils; adequate source materials for reclamation cover; experimentation with different seed species and mixes; a vegetation monitoring program; and invasive weed control. Among other things, the company redefined the vegetation communities at one of its mines and re-mapped the areas according to soils suitability, with chemical suitability verified by lab analysis. This indicated that certain identifiable soils were unsuitable as topsoils, whereas certain sub-materials worked well and were incorporated into the final reclamation plan. Through its work with the Bureau of Land Management and others, the company also found that while chemical control of cheatgrass is effective, it is not a long-term solution, is costly and does not address the issue of failed seeding due to pre-treatment weed invasion. As a result, the company has experimented with stockpiled versus live topsoil, topsoil treatment prior to seeding, seed mix customization, assisted succession with aggressive perennial species and upwind seed source management. The result of these innovative techniques has been the accomplishment of award-winning reclamation.

IMCC also presented an honorable mention to Vulcan Construction Materials for its Skippers Quarry in Greensville County, Virginia. Through its use of innovative engineering design and careful construction management, the company has established a program to maintain plant areas, insure drainage and sediment controls and accomplish excellent reclamation work. Some of the design and control techniques used to protect the environment include the use of sediment ditches instead of ponds to control runoff; the use of rock filter berms, super silt fences and straw bale barriers to ensure temporary sediment control during construction; incremental placement of overburden and waste material and simultaneous reclamation; and use of geo-textiles to ensure slope stability during seeding.

The Floyd G. Durham Small Recognition Award for a Small Operator was presented to Continental Coal, Inc for its Cottonwood Creek Mine, which lies on the border of Kansas and Missouri within an area known as the Osage Plains. Given the nature of the soils and climate within the Osage Plains, Continental Coal effectively implemented the mining and reclamation plan over a ten year period, achieving contemporaneous reclamation with a well-designed landscape. Design elevations were achieved and soils were managed to assure good drainage and minimum compaction. A notable feature within and adjacent to the permit area is an extensive and convoluted system of old mine pits and mine spoil. Excess spoil from the mining operation was used to fill some of the old pits and major gully areas, which resulted in new and more productive wildlife habitat as well as the improvement of water quality in the remaining pits. Post mining enhancements also involved improvements in wildlife habitat, agriculture and water resources. The vegetation for the wildlife habitat involves prairie grassland species and other grasses known to benefit wildlife. Previously mined areas were also reclaimed in a way that benefitted agriculture by converting them to prime farmland or pastureland. The reclamation work that has taken place within the previously mined waters also resulted in a design flow of water through the old pits that provides more healthful waters for fisheries and better establishes drainage into Cottonwood Creek.

The Interstate Mining Compact Commission is a multi-state governmental organization representing the natural resource and environmental protection interests of its 25 member states in Washington, D.C.

For further information about the awards, contact Beth Botsis, Director of Programs, IMCC at 703/709-8654, fax 703/709-8655, or visit our website: www.imcc.isa.us.

IMCC Sponsors Western Region Noncoal/Hardrock Minerals Symposium in Salt Lake City, Utah

The Interstate Mining Compact Commission (IMCC) sponsored a Western Region Noncoal/Hardrock Minerals Symposium at the DoubleTree Downtown Hotel in Salt Lake City, Utah on March 27 - 28, 2013. Speakers and topics included: "Update on Nevada Mineral Production and Exploration" by Alan Coyner, Nevada Division of Minerals; "Overview of Mineral Exploration and Development in the U.S." by David Wilburn, U.S. Geological Survey; "Congressional/Legislative Update" by Kathy Benedetto, House Natural Resources Committee; "Wetlands (404 Primacy; Compensatory Mitigation)" by Tom Crafford, Alaska Department of Natural Resources; "EPA's Bristol Bay Watershed Assessment" by Allan Nakanishi, Alaska Department of Environmental Conservation; "Pit Lakes" by Bruce Holmgrin, Nevada Division of Environmental Protection; "Good Samaritan Protections - Recent EPA Memo" by Loretta Pineda, Colorado Division of Reclamation, Mining & Safety; "Financial Assurance Challenges" by Loretta Pineda and Tony Waldron, Colorado Division of Reclamation, Mining & Safety; "Use of Trust Funds & Other Mechanisms" by Tom Crafford, Alaska Department of Natural Resources; "Impacts of EPA's Proposed Rule Under Section 108(b) of CERCLA" by Bill Brancard, New Mexico Energy, Minerals & Natural Resources Department; and "DOE Report to Congress re. Abandoned Uranium Mines" by Ray Plienness, Office of Legacy Management, U.S. Department of Energy.

In addition to the numerous excellent speakers, the 30+ state attendees participated in roundtable discussion sessions on the following topics: "Overview of Key Mineral Development Issues from the States" and "Bonding Issues". Overviews were presented by participating states and discussions followed on the topic of "Environmental and Land Use Planning" and included the following subtopics: "Endangered Species & Critical Habitat (Sage Grouse, Polar Bear, etc.)"; "Historic and Cultural Resource Issues"; "NEPA Process Issues (State Role as Cooperating Agencies)"; "Human Health Impact Assessments"; "Federal Coordination (Interaction with the Environmental Protection Agency, Bureau of Land Management, Forest Service and Corps of Engineers)"; "Interactions with Local Governments"; and other topics of interest to attendees.

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

IMCC 2013 Mid-Year Meeting Scheduled for San Antonio, Texas

The Interstate Mining Compact Commission (IMCC) will hold its Mid-Year Meeting October 2 - 3, 2013 at the Westin Riverwalk Hotel in San Antonio, Texas.

A joint meeting of the Mine Safety and Health and Noncoal Environmental Affairs Committees will kick off the day on Wednesday, October 2. A meeting is tentatively scheduled between the IMCC states and the Office of Surface Mining (OSM) immediately following. The Abandoned Mine Lands and Coal Environmental Affairs Committees Joint Meeting will follow the OSM/States meeting in executive session. IMCC will also sponsor a luncheon for all attendees on October 2.

On Thursday, October 3, the Resolutions and Finance and Administrative Committees will meet jointly followed by the Executive Commission Business Meeting which will conclude the Mid-Year Meeting.

More details will be posted on the IMCC website as they become available (under the "Conferences" tab). For more information, contact: Beth Botsis at 703.709.8654 or E-mail: bbotsis@imcc.isa.us.

Appeals Court Ruling on EPA's Permit Authority

On April 23, 2013, the U.S. Court of Appeals for the District of Columbia ruled that the Environmental Protection Agency (EPA) has the authority to withdraw the specification of disposal sites in Clean Water Act (CWA) Section 404 permits even after the permit has been issued by the U.S. Army Corps of Engineers. The court ruled the agency can effectively revoke Section 404 permits whenever it determines an adverse environmental impact will result. The appeals court ruling reversed a lower court ruling that denied EPA's authority to retroactively void the Spruce No. 1 permit held by Arch Coal, Inc. subsidiary Mingo Logan Coal Co. In West Virginia.

The appeals court did not address the issue of whether EPA's action specific to the Spruce permit was permissible, instead relying on an affirmation of the agency's broad authority to revoke Section 404 permits. The issue of whether EPA's specific action was arbitrary and capricious was remanded to the district court.

In a related move, West Virginia's senators led a bi-partisan bid last week to curb the Environmental Protection Agency's (EPA) authority to veto existing Section 404 permits for coal mining. Senators Joe Manchin (D- WV) and Jay Rockefeller (D-WV) were joined by five colleagues in introducing the "EPA Fair Play Act," virtually identical to a bill introduced by Manchin in 2011. The bill would prevent EPA from retroactively vetoing permits "to protect energy production, economic growth and job creation," according to a press release from the senators.

Senate Republicans React to CEQ Draft Guidance

In reaction to a White House Council on Environmental Quality (CEQ) draft guidance to federal agencies dated February 18, 2010, Senator David Vitter (R-LA), ranking member of the Environment and Public Works Committee, recently led 31 Republican colleagues in urging CEQ not to use its authority under the National Environmental Policy Act (NEPA) to tie up projects due to climate change considerations. In an April 22 letter to CEQ Chairwoman Nancy Sutley, the senators said the inclusion of greenhouse gas considerations in the NEPA permit process would "expand the scope" of the law to a point that is "inconsistent with the intentions of the statute."

The CEQ draft guidance proposed that federal agencies reserve the right to include consideration of climate change impacts from major projects requiring NEPA permits. "Efforts to regulate GHGs [greenhouse gases] using the NEPA process will cause significant delays in permitting projects and slow our nation's economic recovery," said the senators. CEQ's draft ignored the fact that NEPA is not a statute designed to mitigate GHG emissions, according to the senators, but is instead a procedural statute intended to provide the public with clarity about environmental impacts. The senators also said the impossibility of linking the impact of GHG emissions from a specific project to climate change renders the draft guidance legally indefensible.

New Chief of Staff on Board at EPA

The Environmental Protection Agency (EPA) Acting Administrator Bob Perciasepe recently announced that Gwen Keyes Fleming would assume the position as chief of staff to the administrator on May 1. Fleming was previously the regional administrator for Region IV and has been actively involved in surface coal mining issues. She replaced Diane Thompson, who will remain with the agency through mid-May to assist in the transition to the new administrator. Gina McCarthy has been nominated by President Obama to fill the administrator slot and is awaiting Senate confirmation.

Bristol Bay Threatened by Mining, Says EPA

Large-scale mineral mining in the Bristol Bay watershed would pose serious environmental threats to Alaska's fisheries and water quality, said the Environmental Protection Agency (EPA) in a report released late Friday. The report, which was revised with public input from a previously released version, purports to model the potential impacts of a copper and gold mining operation similar in scope to the proposed Pebble Mine.

Importantly, the Pebble Partnership has yet to submit its plans for a permit application. In the new draft, EPA said up to 90 miles of streams and several square miles of wetlands could be destroyed, along with multiple fish habitats, from a large mining operation in the watershed. EPA requested further public comment, which it says it will assess by fall of this year.

NAAML/IMCC Comments on OSM Limited Liability Proposed Rule

The National Association of Abandoned Mine Lands (NAAML) and the Interstate Mining Compact Commission (IMCC) submitted comments on March 18, 2013 to the Office of Surface Mining (OSM) regarding a rule proposed by the agency to address limited liability provisions for noncoal reclamation conducted by certified States and Indian tribes as part of a reclamation plan approved under the Surface Mining Control and Reclamation Act (SMCRA). The rule is being promulgated to address concerns that the removal of the limited liability protection provisions in the 2008 rulemaking resulted in a disincentive for certified States and tribes from completing noncoal reclamation activities. The rule was published on February 6, 2013 at 78 Fed. Reg. 8822.

"Our review of the proposed rule changes reveals the changes, while numerous, accomplish exactly what is intended and as such we strongly endorse them and encourage OSM to move forward expeditiously with a final rule. Our comments are restricted to clarification and editorial corrections" NAAML and IMCC stated. "OSM's proposed rule reinstates the limited liability provisions contained in SMCRA for noncoal reclamation conducted by certified states and tribes which were removed in the 2008 rulemaking. While we anticipated fewer changes required to effect the

reinstatement, our review indicates OSM has done a thorough job in correcting all areas of the rules necessary to support the reinstatement. OSM is to be commended for their effort.”

For more information, contact: Greg Conrad at 703.709.8654 or E-mail: gconrad@imcc.isa.us.

IMCC and MSHA Meeting Held January 23, 2013

Member states of the Interstate Mining Compact Commission (IMCC) met with officials from the Mine Safety and Health Administration (MSHA) within the U.S. Department of Labor on January 23, 2013 at MSHA’s headquarters in Arlington, Virginia. Following introductions, Assistant Secretary Joseph Main presented opening remarks and provided an overview of the key priorities for the agency during tough budget times. Among other things, he highlighted MSHA’s initiatives and continued focus on its enforcement policy; noted that MSHA’s final Pattern of Violations (POV) rule was being published in the January 23, 2013 Federal Register, with its goal of reducing significant and substantial violations; and commented on the continued reductions with respect to respirable dust concentrations by 14% in underground coal mines to the lowest levels ever recorded since the “End Black Lung” campaign began in 2009.

Following Mr. Main’s remarks, Jeff Kravitz of MSHA presented an overview of MSHA’s Mine Rescue Criteria and Guidance to improve the overall quality of training and MSHA/industry/mine rescue team readiness. Discussion of miner rescue contests and mine emergency guidance followed.

Other topics discussed at the meeting included: state training grants and funding impacts related to budget reductions and sequestration; regulation of coal waste impoundments and coordination between MSHA, states and the Office of Surface Mining; certification, decertification and recertification of miners, state electrical certifications and tracking systems; cooperation between states and MSHA regarding metal/nonmetal impoundment identification and inspections; the impact of coal bed methane development (placement of wells) on underground coal mining; pending or proposed MSHA rulemakings, including the Final Examinations Rule, and rules regarding proximity detection systems, refuge alternatives for underground coal mines, and a potential regulatory package that addresses the recommendations in MSHA’s report on the Upper Big Branch incident; underground mine mapping efforts; and other key concerns of attendees.

For more information, contact: Greg Conrad at 703.709.8654 or E-mail: gconrad@imcc.isa.us.

IMCC Submits Statement on OSM Proposed Budget

The Interstate Mining Compact Commission (IMCC) submitted a statement regarding the FY 2014 proposed budget for the Office of Surface Mining Reclamation and Enforcement (OSM) to the House Interior, Environment and Related Agencies Appropriations Subcommittee hearing held on April 25, 2013. In its proposed budget for Title V grants to states and Indian tribes for the implementation of their regulatory programs under the Surface Mining Control and Reclamation Act (SMCRA), OSM proposed a reduction of \$10.9 million or 15% below the FY 2012 enacted level. Title V grants are required to be matched by the states each year and are “essential to the full and effective operations of the state regulatory programs,” according to the statement. “Pursuant to these primacy programs, the states have the most direct and critical responsibilities for conducting regulatory operations to minimize the impact of coal extraction operations on people and the environment. The states accomplish this through a combination of permitting, inspection and enforcement duties, designating lands as unsuitable for mining operations, and ensuring that timely reclamation occurs after mining.” IMCC’s statement voiced strong opposition to these cuts on the grounds that OSM is once again attempting to reverse course and unravel and undermine the progress made by Congress in supporting state programs with adequate funding, thus undermining states’ efforts to realize needed program improvements and enhancements and jeopardizing states’ efforts to minimize the potential adverse impacts of coal extraction operations on people and the environment. IMCC noted that, given fiscal constraints on state budgets from the downturn in the economy, some states have only recently been able to move beyond hiring and salary freezes and restrictions on equipment and vehicle purchases, all of which have inhibited states’ ability to spend all of their federal grant money. IMCC pointed out that, because states match these grants, a 15% cut in federal funding translates into an additional 15% cut for overall program funding for many states, since these states can generally only match what they receive in federal money. The statement also noted, “OSM’s solution for the drastic cuts comes in the way of an unrealistic assumption that the states can simply increase user fees in an effort to ‘eliminate a de facto subsidy of the coal industry’... OSM’s proposal is completely out of touch with the realities associated with establishing or enhancing user fees, especially given the need for approvals by state legislatures.” IMCC urged the Subcommittee to reject this approach and mandate that OSM work through the complexities associated with any future user fees proposal in close cooperation with the states and tribes prior to cutting federal funding for state Title V grants.

While OSM is proposing significant cuts for state programs, the agency is proposing sizeable increases for its own program operations (\$4 million) for federal oversight of state programs, including an increase of 19 full time employees. IMCC interprets OSM's reasoning for the increased funding and staffing of its own program as reflecting a move by OSM to exert a more direct role in state programs, especially regarding permitting decisions, thereby weakening state primacy. IMCC urged Congress to reject this request "without more to justify the need for more oversight and the concomitant increase in funding for federal operations related thereto." IMCC further stated that the overall performance of the states as detailed in OSM's annual state program evaluation reports demonstrates that the states are implementing their programs effectively and in accordance with the purposes and objectives of SMCRA, suggesting that OSM is adequately accomplishing its statutory oversight obligations with current federal program funding and that any increased workloads are likely to fall upon the states, which have primary responsibility for implementing appropriate adjustments to their programs identified during federal oversight.

To obtain a copy of IMCC's statement, contact: Greg Conrad at 703.709.8654 or E-mail: gconrad@imcc.isa.us.

NAAMLPL Submits Statement on FY 2014 Proposed Budget for OSM

Todd Coffelt, Chief of the Mines and Minerals Bureau for the Iowa Department of Agriculture and Land Stewardship, submitted a statement on behalf of the National Association of Abandoned Mine Land Programs (NAAMLPL) regarding the FY 2014 Proposed Budget for the Office of Surface Mining (OSM) before the House Interior, Environment and Related Agencies Subcommittee on April 25, 2013. OSM proposed a reduction of \$67 million in mandatory spending for the abandoned mine lands (AML) program under the Surface Mining Control and Reclamation Act (SMCRA). OSM's budget also includes three legislative proposals, the first of which would eliminate funding to states and tribes that have "certified" completion of their highest priority abandoned coal reclamation sites; the second of which would return the AML reclamation fee paid by coal operators back to pre-2006 levels; and the third of which would establish a hardrock AML fee and accompanying program. NAAMLPL asserted that the elimination of funding for certified state and tribal AML grants "not only breaks the promise of State and Tribal share funding, but upsets the balance and compromise that was achieved in the comprehensive restructuring of SMCRA accomplished by the 2006 Amendments following more than ten years of discussion and negotiation by all affected parties" and urged Congress to support continued funding for certified states and tribes at the statutorily authorized levels, and to turn back any efforts by OSM to amend SMCRA in that regard. NAAMLPL also urged Congress to reject OSM's proposed elimination of funding for AML emergencies. With regard to the development of a hardrock AML program, NAAMLPL stated that OSM is in the best position to administer such a program in light of its 35 years of experience with the Title IV AML program under SMCRA. However, NAAMLPL's support is not without concerns considering that while OSM is advocating for the establishment of a hardrock AML program, it is also pushing for the elimination of funding for certified states and tribes to accomplish this very work. The statement also pointed out that Congress has already adopted legislation that would clarify the use of SMCRA AML funds to address noncoal problems.

The Interstate Mining Compact Commission (IMCC) included similar remarks regarding OSM's proposed budget for the AML program in its statement on the proposed FY 2014 OSM budget.

For more information, contact: Greg Conrad at 703.709.8654 or E-mail: gconrad@imcc.isa.us.

IMCC Submits Statement on FY 2014 Budget Request of MSHA; Seeks Clarification on State Training Grant Funding Cuts

The Interstate Mining Compact Commission (IMCC) submitted a statement regarding the FY 2014 Budget request of the Mine Safety and Health Administration (MSHA) to the Subcommittees on Labor, Health and Human Services, Education and Related Agencies of the House and Senate Appropriations Committees on April 30, 2013. IMCC urged the Subcommittees to reject MSHA's proposed de-funding of the Assistance to the States grant program pursuant to Section 503(a) of the Mine Safety and Health Act of 1977, and to restore funding to the statutorily authorized level of \$10 million for state grants so that states are able to fully and effectively carry out their responsibilities under Sections 502 and 503 of the Act, including the training of our Nation's miners. IMCC pointed out that, whereas MSHA has narrowly interpreted Assistance to States over the years as meaning "training grants" only, Section 503 was structured to be much broader in scope and to stand as a separate and distinct part of the overall mine safety and health program. In the Conference Report that accompanied passage of the Federal Coal Mine Health and Safety Act of 1969, the conference committee noted that both the House and Senate bills provided for "Federal assistance to coal-producing States in developing and enforcing effective health and safety laws and regulations applicable to mines in the States and to promote Federal-State coordination and cooperation in improving health and safety conditions in the Nation's coal mines." (H.Conf.Report 91-761) The 1977 Amendments to the Mine Safety and Health Act expanded these assistance grants to both coal and metal/non-metal mines and increased the authorization for annual appropriations to \$10 million. The training of miners was only one part of the obligation envisioned by Congress. IMCC

is concerned that without full funding of the state grants program, the federally required training for miners employed throughout the U.S. will greatly suffer. MSHA's budget justification document declares the critical importance of training in preventing deaths, injuries, and illnesses on the job, but IMCC stated, "We are mystified about how MSHA intends to accomplish these stated objectives without the training and other programs that are provided by the states pursuant to the grants they receive from MSHA." MSHA's recommended fix for de-funding the state grant program is to immediately shift training responsibilities and costs entirely to mine operators, but in its statement IMCC expressed uncertainty about the ability of the mining industry (especially small operators) to accommodate these new costs and to provide training at what would be considered a minimum standard for these types of programs. MSHA notes in its budget justification document that the de-funding of state training grants will result in 180,000 miners in 47 states and the Navajo Nation not receiving training compared to results in FY 2012. MSHA is also proposing to increase funding by \$800,000 and 6 full time employees for its Educational Field Services training specialists to "review training plans, monitor and assist industry instructors to develop and improve their skills, and assist mine operators with their health and safety program." IMCC believes that this reflects an acknowledgment on MSHA's part that the transition to a totally industry-lead training initiative will likely be fraught with difficulties.

In a related matter, Gregory E. Conrad, IMCC's Executive Director, sent a letter dated April 3, 2013 to Congressman Harold Rogers, Chairman of the House Appropriations Committee and others, seeking clarification regarding MSHA's funding for state training grants under the continuing resolution (H.R. 933) for FY 2013 that was approved by Congress and signed into law by the President. Mr. Conrad stated that it is IMCC's understanding that, under H.R. 933, MSHA's funding should be based on the amount approved for FY 2012 (\$8.94 million) and that any sequestration cuts or rescissions should also be based on that amount. However, in the case of grants to states, the FY 2012 amount of \$8.94 million should only sustain the sequestration cut of 5% for discretionary programs. Instead, MSHA has proposed a cut of almost 65% for state training grants based on the agency's belief that sequestration applies to MSHA's proposed budget cut of 55% for state training grants in its budget request for FY 2013, which was never approved by Congress. According to Mr. Conrad, MSHA also asserts that the Budget Control Act of 2011 (from which sequestration derives) provides the agency with the discretion to reprogram and/or reallocate funding that it receives by way of the CR for FY 2013 based on its "highest priority activities", which apparently do not include adequate training for our Nation's miners.

To obtain a copy of IMCC's statement, contact: Greg Conrad at 703.709.8654 or E-mail: gconrad@imcc.isa.us.