

**OFFICE OF SURFACE MINING
Albuquerque Area Office
ANNUAL EVALUATION REPORT**

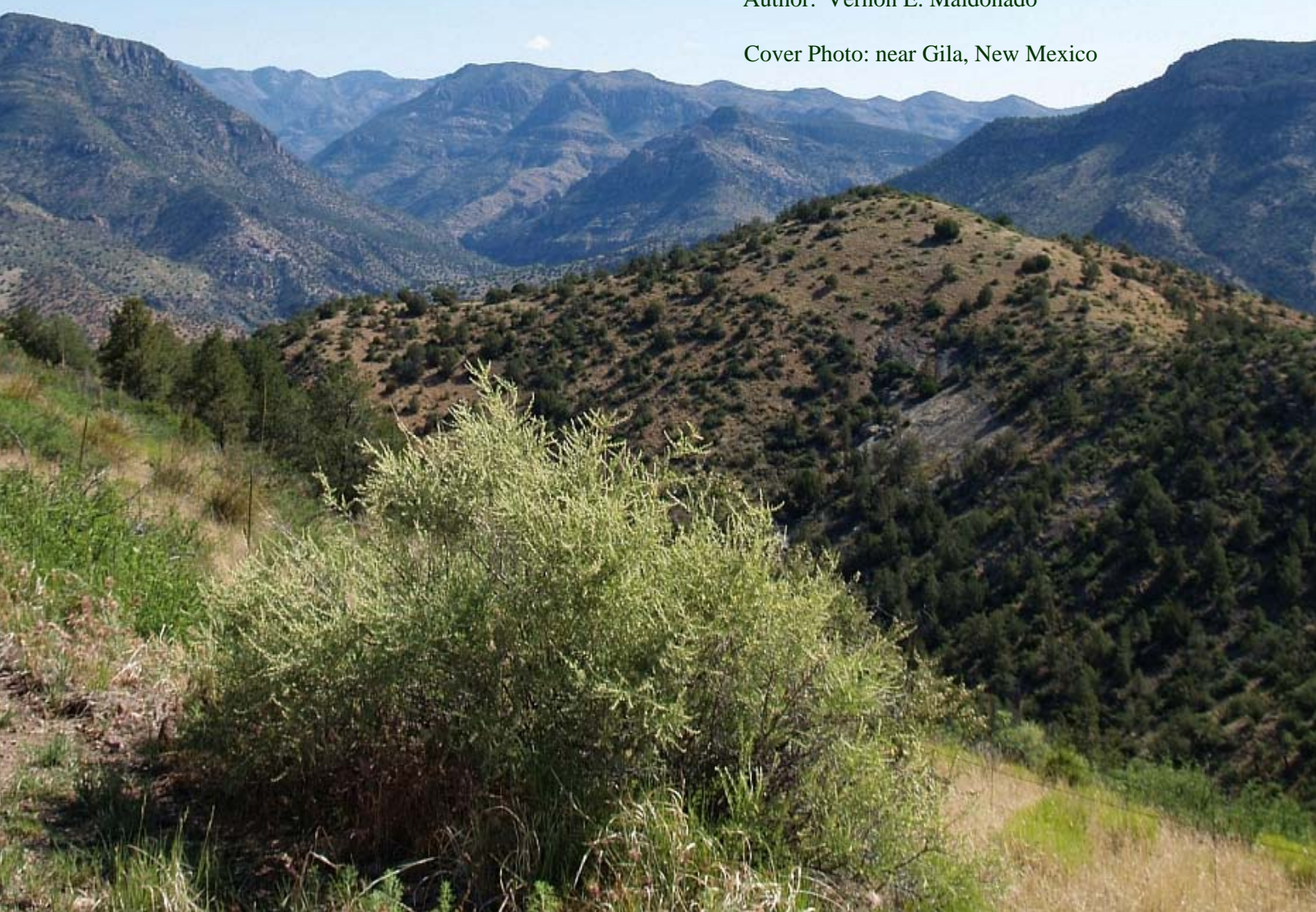
for

**New Mexico Abandoned Mine Land Reclamation Program
Evaluation Year 2007**

(July 1, 2006 through June 30, 2007)

Author: Vernon E. Maldonado

Cover Photo: near Gila, New Mexico



INTRODUCTION

The Office of Surface Mining Reclamation and Enforcement (OSM) was formed by the passage of the Surface Mining Control and Reclamation Act (SMCRA) on May 2, 1977. OSM has responsibility under SMCRA for approving and then annually evaluating the progress of State and Tribal Abandoned Mine Land (AML) Programs in how well they carry out the goals of SMCRA, Title IV – Abandoned Mine Land Reclamation. The primary goal of Abandoned Mine Land Programs is to mitigate the effects of past mining by reclaiming abandoned coal and non-coal (mineral) mines. The primary emphasis is placed on correcting the most serious problems endangering public health, safety, general welfare, and property.

This annual evaluation report is produced by OSM in fulfillment of its Statutory responsibility under Title IV of SMCRA, to annually assess the accomplishments of the New Mexico Mining and Minerals Division, Abandoned Mine Lands Reclamation Program (New Mexico AML Program).

The New Mexico Abandoned Mine Land (AML) Program and certain other abandoned mine land programs throughout the nation were formed when they applied for and received OSM approval under SMCRA. This law places a fee on active coal mines of 35 cents per ton of surface mined coal and 15 cents per ton of underground mined coal. These monies are placed in a fund called the Abandoned Mine Reclamation Fund. This fund is used to reclaim coal mines abandoned prior to the enactment of SMCRA. Under certain conditions, abandoned non-coal mines and some post-SMCRA mines may also be reclaimed.

For a complete history of the AML fee go to:

<http://cnie.org/NLE/CRSreports/06May/RL32993.pdf>

On behalf of the Secretary of the Interior, OSM administers the Abandoned Mine Reclamation Fund by awarding grants to States and Indian Nations / Tribes, to cover their administration and reclamation costs of running their Programs. The OSM Western Region's (OSM-WR), Albuquerque Field Office (WR-AFO) was realigned in 2007 and is now called the Albuquerque Area Office (OSM-AAO). Through its oversight process, OSM-AAO monitors the progress and accomplishments of the New Mexico AML Program and produces an annual evaluation report (AER).

This annual evaluation report consists of OSM's oversight findings based on field inspections and meetings with the New Mexico AML during the 12-month evaluation period beginning July 1, 2006 and ending June 30, 2007 (EY-2007). It also documents the activities and accomplishments of the New Mexico AML Program over the 12-month evaluation period.

In conducting this annual review, AFO followed OSM Directive AML-22, which contains general procedures for evaluating Abandoned Mined Land Reclamation Programs. OSM and New Mexico AML have agreed to have an ongoing work plan that each annual evaluation will consist of reporting on the Program's reclamation accomplishments under the Abandoned Mine Land Inventory (AMLIS) database. OSM-AAO also routinely reports on reclamation projects, compliance with the National Environmental Policy Act (NEPA), the status of grants, program administration and staffing.

In past annual evaluation reports, OSM found the New Mexico AML Program to be an excellent and well managed State Program. As a result of this year's oversight activities OSM again did not see fit to make any recommendations for improvement.

EY-2007 has been a difficult time for all AML programs nationwide in that the AML fee was in jeopardy of expiration and future funding levels were not known. This made it difficult to plan for future staffing, project development and workload.

This year's oversight activity involved the following State and Federal personnel:

NM-AML

John Kretzmann, Program Mgr./P.E.
Randall Armijo, Environ. Coordinator
Lloyd Moiola, Project Manager
Mike Tompson, P.E.
Ray Rodarte, Reclamation Spec.

OSM-AFO

Vernon Maldonado, AML Pgm. Spec.
Dan Martinez, Grants Specialist

PART I. GENERAL INFORMATION

The State of New Mexico contains a diversity of ecosystems ranging from high, steeply sloping mountainous areas to semiarid plains and arid desert. Vegetative communities and wildlife are equally diverse across the state. Average rainfall ranges from a high of approximately 20 inches per year to a low of about six inches depending on elevation. New Mexico's coal resource underlies approximately one-fifth of the state's surface (over 15 million acres) and totals over 40.6 billion short tons of coal. A significant amount of pre-law mining has occurred within the State since the turn of the century, leaving numerous high priority hazards.

Land ownership in New Mexico is approximately 34.1% Federal (BLM, USFS, NPS) and 11.6% State Trust Land for a total of 45.7% public lands (55,566 sq. mi.). The highest concentration of AML hazards occurs on much of this public land. Public land is increasingly being developed for open space public recreation such as camping, biking, hiking, campgrounds, etc. Population demographics and increased access to mining areas within the State are changing and this is change is raising the SMCRA priority of several mining areas and associated mine hazards.

The state of New Mexico has a long mining history. One of the oldest existing mines in the United States, is just south of Santa Fe, New Mexico. It dates back to 1200 A.D. Some pre-historic mining occurred as early as 600 A.D. Indians mined turquoise, lead and copper for years prior to the arrival of Europeans. Spanish explorers mined for silver and gold in the 1800's. The Cerrillos area, just south of Santa Fe, was an important mining district in New Mexico. Abandoned gold and silver mines also exist in the southern part of the State near Orogrande and Deming. Whether from mineral mining or coal mining, numerous physical hazards in the form of mine equipment and structures, portals, and vertical shafts, exist throughout the State.

New Mexico AML Program History:

New Mexico received primacy under SMCRA on December 31, 1980. New Mexico's AML Program was subsequently approved by the Secretary of Interior on June 17, 1981. Since then the New Mexico AML Program has been working to reclaim both its high priority coal and non-coal inventory. Although the State has not yet certified completion of its high priority coal reclamation, the bulk of the high priority coal reclamation has been completed. Life threatening hazards from non-coal have occasionally predisposed or displaced coal hazard priorities.

The State's inventory of un-reclaimed mines is substantial and total estimated reclamation cost of reclaiming all known mine related hazards exceeds the amount of unallocated AML funds currently available to New Mexico. Therefore, New Mexico continually struggles to prioritize its most important safety and environmental hazards.

In EY-2007, New Mexico AML updated its cost estimates for completing its Priority-1, Priority-2 and Priority-3 coal hazards in the existing AMLIS inventory. No new sites were added to the inventory. By bringing the costs up to date to reflect current construction prices, the costs have grown approximately three times that of the original cost estimates done in 1981. Priority-1 & -2 coal costs grew from \$5.2M to \$13.8M and for Priority-3 coal the costs grew from \$3.2M to \$12.1M. Collectively the total costs have grown from \$8.4M in 1981 dollars to \$25.9M in 2007 dollars. When one considers that this construction cost is only for the outstanding inventory and does not reflect the work already completed and paid for, it is clear that reclamation costs have more than tripled since 1981.

Program Staffing:

The New Mexico AML Program is under the New Mexico Mining and Minerals Division, of the New Mexico Energy, Minerals and Natural Resources Department. The New Mexico AML Program is under the direction of Mr. John Kretzmann, Program Manager / P.E. All of the AML staff work out of the New Mexico AML Office, Mining and Minerals Division, Energy and Minerals Department located at 1220 South Saint Frances Drive, Santa Fe, New Mexico, 87505, telephone (505) 476-3400.

The AML Program consists of eight (8) full time employees plus the equivalent of one additional support staff employee within the Mining and Minerals Division. The AML Program has had a staffing level of about nine (9) FTE's during the past 25 years. Three (3) of these positions are partially funded (cost share) by other programs within the Division.

Future Funding Under the 2006 SMCRA Amendment:

SMCRA AML fee collections were due to expire on September 30, 2006. However, H.R. 6111 was approved by Congress on December 9, 2006, and thus Congress signed into law P.L. 109-432 effective December 20, 2006. P.L. 109-432 extends AML fee collection at reduced rates through FY-2021. In addition, it mandates that OSM begin full distribution of AML fees that have accumulated in each State or Tribal Share's undistributed balance.

Overall it is a rather complicated amendment to the Surface Mining Control and Reclamation Act that is difficult to interpret or understand. As a result, the full effect of the SMCRA amendment has raised several questions that have not yet been resolved. To implement the amendment, OSM will publish Interim Final Rules by September 30, 2007 so that the FY-2008 distributions can be made. At approximately the same time, proposed Final Rules should be published in the Federal Register that will allow for a comment period of at least 60 days. These final rules will ultimately amend relevant parts of 30 CFR Parts 700 through end to fully implement the 2006 SMCRA amendment.

For the New Mexico AML Program which is **not** a certified AML Program, under the 2006 SMCRA Amendment, P.L. 109-432, the Program will receive funding for each of the following items as explained below:

- 1) **State Share Balance (from previously unappropriated fee collections)** – From 1981 to September 30, 2006, \$115,994,960 in AML fees has been collected from coal mining in New Mexico. During this time period, \$36,972,070 of this money has been distributed back to the State. This represents 36.25% of collections, rather than the 50% it was supposed to receive. The 13.75% difference that OSM has not distributed to the New Mexico AML Program over the years, is the New Mexico State-share Balance.

The 2006 SMCRA Amendment specifies that an amount equal to the existing unappropriated State-share balance of all allocations made before October 1, 2007 will be paid to the State in seven (7) equal annual installments (grants), beginning in FY-2008. Regardless of a State's certification status, funds for these payments will come from the US Treasury and not from the AML fund.

As of September 30, 2006, the New Mexico AML Program has approximately \$21M in its unallocated State-share balance. So beginning in FY-2008 through FY-2014, the New Mexico AML Program will receive annual payments of approximately \$3.0M per year to payoff this balance amount due to the State. However, this payment is subject to a \$490M total annual cap for all approved AML Programs in the nation. Should the nationwide distribution calculations be larger than this amount, the funding will be decreased on a proportionate basis so that the total annual distribution does not exceed the \$490M cap.

The 2006 SMCRA amendment specifies that uncertified States like New Mexico are restricted to using these funds exclusively for the purposes of Section 403(a) [the newly established SMCRA priorities as referenced by Section 402(g)(2) and (7)]. However, certified State or Tribal Programs are restricted to using funds in accordance with legislative or Tribal Council direction, with priority given to addressing the impacts of mineral development.

- 2) **Current fee collections** – Uncertified States like New Mexico will continue to receive each of its full current (50%) fee collections from the previous year. These funds have no new restrictions (can be used for non-coal) and can be expended in the same manner as in past years. One caveat is that these payments will be reduced down to 25%, 50% and 75% of the full amount for the first three years (2009, 2010 and 2011) respectively. The difference (the annual 3-year reduction amount of 75%, 50% and 25% respectively) will be added together and awarded to the New Mexico AML Program later in the form of two separate and equal annual payments beginning in 2018. This means that New Mexico will have less money for non-coal reclamation during these three years than it had available in the past.

In contrast, in FY-2007 and 2008 certified programs will receive their full (50%) fee collections from the prior year respectively, then beginning with FY-2009, they will no longer be entitled to receive their prior year (50%) State-share collections. This was the past source of Program funding prior to 2008. Instead, they will receive annual payments from the US Treasury that are equivalent to, but in lieu of, the 50% amount of current fee collections from active coal mining during the previous fiscal year.

Under the 2006 SMCRA amendment, the actual 50% share collections (from certified programs) will henceforth be transferred (allocated) to OSM's Historical Production allocation on an annual basis for distribution by OSM to uncertified State AML Programs with Priority-1 coal hazards. This effectively increases the amount of money available to uncertified programs while not impacting funding for certified programs. This is possible thanks to equivalent funds coming from the US Treasury (at taxpayer expense).

It is noteworthy that funds collected by certified programs under the authority of Title IV of SMCRA are restricted for use in accordance with the purposes of Section 401(c) of SMCRA. Due to this restriction, under the 2006 SMCRA amendment these funds are being transferred for use by uncertified State or Tribal Programs. Concurrently, the funds taken away from certified AML Programs will be replaced by US Treasury funds which have no restrictions on their use under Section 401(c). As a result, certified programs will not suffer a net loss and at the same time their funds will have fewer restrictions on their use.

- 3) **Historical Share** – Historical Share funding under SMCRA, Sec 402(g)(5) is supplemental funding reserved for AML Programs that still have unreclaimed high priority coal hazards. Because the New Mexico AML Program has not certified completion of its high priority coal hazards, it is eligible to receive supplemental historical share funding. The amount of annual supplemental funding each State or Tribal Program receives is based upon a formula that pro-rates funding to States based upon the amount of historical coal production produced from each coal producing State prior to August 3, 1977. OSM's most recently published table shows that for FY-2007, New Mexico receives 0.35% of the national total historical coal distribution of \$43.9 M. For example, in 2007 New Mexico received \$206,215 in historical-share funding or about 14% of its total allocation for the year.

Under the 2006 SMCRA amendment, the existing pot of unallocated 50% State/Tribal-share funds that were collected from certified and uncertified programs alike will be now be diverted to the Historical Coal production allocation. In addition, under the 2006 SMCRA amendment, the Rural Abandoned Mine Program (RAMP) will be eliminated and funds that previously went to RAMP will now also be diverted to the Historical Coal production allocation. Together, these additional funds will serve to further increase the amount of historical coal funding available to qualified programs.

The intent of the 2006 SMCRA amendment is to increase the rate at which high priority hazards in the AMLIS inventory are reclaimed. [Note: Certified programs will not suffer a loss of funds as they will receive an equivalent amount of money from the US Treasury.] In essence, the 2006 SMCRA amendment authorized matching funds from the US Treasury for the State and Tribal Share Balance (not the Federal share) of the Total Unappropriated Balance which is \$1,221,469,162. The total unappropriated balance is discussed further below in the next section of this report.

- 4) **Minimum Program Funding** – Although SMCRA set the minimum program funding level at \$2.0M, historically OSM has only funded to the \$1.5M level. New Mexico State-share collections average about \$3M per year. In the past, when New Mexico AML Program's annual funding was under \$1.5M, the State received additional funds (usually around \$100,000. to \$200,000.), called minimum program funds, in the amount necessary to bring the total funding up to the \$1.5M level. Although SMCRA calls for a minimum funding level of \$2.0M, OSM (through Congressional appropriation) has always funded only to the \$1.5M level. The 2006 SMCRA amendment raised the minimum funding level to a strict \$3.0M level.

The new SMCRA amendment raised the minimum funding level (threshold) from \$2.0M (actual \$1.5M funding) to \$3M. (Note: certified AML Programs are not eligible to receive minimum program funding.) Under the 2006 SMCRA amendment, these funds will come out of the Secretary's 50% federal / discretionary share. Under the 2006 SMCRA amendment, beginning in 2008 minimum program funds are no longer subject to Congressional appropriation, so the actual minimum program funding levels will not be arbitrarily decreased from the \$3M level, for qualifying programs (non-certified programs who's funding level is less than \$3M). However, the 2006 SMCRA amendment specifies that this minimum program guarantee will be phased in over four years. Phased in funding will begin in 2008, first at the 50% level for two years, then at the 75% level for the next two years and then at the 100% level thereafter. Thus in 2008 and 2009, the threshold for receiving minimum program funds will be set at \$1.5M, in 2010 and 2011 it will be set at \$2.25M and thereafter it will be set at \$3.0M.

OSM has prepared preliminary funding estimates for existing AML programs. The table below shows the most recent funding projection for New Mexico over the next ten years. Based upon the table, New Mexico will not receive minimum program funding until 2015, provided that it has not already certified by that time.

Projected 10-Year Funding Levels for New Mexico AML by Year (in million dollars)

	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
Undist. St. Share Bal. in 7=Pmts.	\$3.0	\$3.0	\$3.0	\$3.0	\$3.0	\$3.0	\$3.0			
Other Sources	\$1.3	\$1.2	\$1.0	\$1.5	\$2.1	\$2.1	\$1.8	\$1.9	\$1.8	\$1.8
Total:	\$4.3	\$4.2	\$4.0	\$4.5	\$5.1	\$5.1	\$4.8	\$1.9	\$1.8	\$1.8

Interim final rules to implement the statutory revisions of the 2006 SMCRA amendment must be published in the Federal Register by September 30, 2007 because OSM must start the new funding mechanism on October 1, 2007 for FY-2008. For uncertified programs like New Mexico, OSM’s official interpretation of P.L.109-432, regarding if Item-1 funds (State Share Balance funds) described above will be restricted to priority-1 or -2 coal hazards only, should be discussed in the interim-final rules that are due to be published in September 2007. OSM also anticipates publishing a proposed rule Federal Register notice on the proposed final rules at approximately the same time as the interim-final rules are published. The notice should provide at least a 60 day comment period. Subsequently, OSM will consider all comments received and publish final rules to fully implement the 2006 SMCRA amendment.

For certified programs, it is anticipated that Item-1 funds should be able to be used in accordance “with legislative or Tribal council direction, with priority given to addressing the impacts of mineral development.” However, OSM has not officially deciphered the SMCRA amendment to determine if Item-1 funds will be distributed through OSM’s grants or if these funds will simply be distributed to the respective State or Tribe as general funds without restrictions on their use. The distribution parameters may also be discussed in the pending Interim final rules and may also be subject to change in OSM’s interim final rules or permanent rules, once adopted. Finally, it must be determined if OSM will continue to oversight the use of funds to certified programs.

For grants awarded during FY-2008, 2009, and 2010, the 2006 SMCRA amendment extends the time after which the Secretary may rescind (reclaim or recover) any unexpended State-share grant awards from three (3) years to five (5) years (this applies to both Item-1 and Item-2 funding above). In which case New Mexico AML could lose those unexpended funds and the recovered funds would be re-allocated to States or Tribes as part of the historical coal production allocation. Thus construction grants must be completely expended or encumbered within five (5) years of the grant award or the Secretary could (and likely will) re-allocate the balance to other uncertified AML Programs.

Status of Fee Collections and Fund Distributions Relative to the AMLIS Inventory:

The National Abandoned Mine Reclamation Fund consists of fees, contributions, late payment interest, penalties, administrative charges, and interest earned on investment of the fund's principal. Nationwide, from January 30, 1978, when the first fees were paid, through FY-2006

(September 30, 2005), the **nationwide fund** has collected \$7,949,025,289. Total appropriations nationwide, during this same time period, are \$5,992,800,065. The un-appropriated balance in the national AML Fund as of this same period is \$1,956,225,224. The un-appropriated balance consists of \$734,756,062 of Federal Share money and \$1,221,469,162 of State Share money.

Cumulative State-share distributions as of September 30, 2006 to New Mexico, via construction and administration grants, totals \$35,724,658. Adding in the \$1.5 million distribution for EY-2007 yields the total cumulative distribution to the State of \$37,224,658. With these funds, the Energy, Minerals and Natural Resources Department has overseen the closure of over 4,000 mine openings and the remediation of hundreds of acres of mine waste (see the New Mexico EMNRD web site at (www.emnrd.state.nm.us) for further information. The Department estimates that about 15,000 hazards at 5,000 mine sites still remain either un-reclaimed or un-safeguarded.

Based on the cost estimates reflected in OSM's AMLIS database as of August 2007, New Mexico has completed \$12.5 million in high priority-1 and -2 coal problems. New Mexico AML has also completed \$3.5 million worth of priority-3 coal & non-coal problems in its inventory. Altogether, the State's AML Program has claim to \$16 million worth of completed mine reclamation work since the Program began in 1981. This is actual construction costs and does not include the cost of project development.

According to data published for the State of New Mexico, on OSM's web site (www.osmre.gov), \$3 to \$5 million in AML fees is collected annually from active coal production. New Mexico State-share collections, between January 1978 and September 30, 2006, totals \$115,994,960. So, 50% of the total State-share collections would therefore be \$57,997,480. However, State-share distributions thus far have only totaled \$36,972,070 which is only 63.7% of what they should have received. The difference, \$21,025,410, is the New Mexico undistributed State-share balance as of September 30, 2006.

In EY-2007, New Mexico updated its cost estimates for existing unreclaimed hazards in its AMLIS inventory of Priority-1, -2, and -3 coal hazards. The updated cost estimate reveals that New Mexico has \$14 million in unreclaimed priority-1 and -2 coal hazards remaining and \$12 million in unreclaimed priority-3 coal hazards remaining. In total, there are \$26 million in known unreclaimed coal hazards in the State.

As of September 30, 2006, New Mexico had \$21,025,410 in their un-appropriated State-share Balance. As previously mentioned, under New Mexico's updated cost estimate it would take approximately \$14 million to reclaim all remain high priority coal hazards in the State and \$12 million to reclaim all priority-3 coal hazards. The existing unappropriated State-share balance is sufficient to reclaim all high priority coal hazards but falls short of reclaiming all priority-3 coal hazards. In addition, because the most serious hazards in the State are on non-coal abandoned mine sites, New Mexico is left with a political dilemma regarding how to prioritize its safeguarding efforts within the State. OSM and New Mexico are currently in disagreement on the interpretation of the new SMCRA amendment regarding whether or not unappropriated State-share money (Item-1 funds) can be used for non-coal priorities.

At the current staffing level (8 FTE's) and funding levels (\$1.5 to \$1.8 million per year), it would take approximately 10 years for the State to complete the reclamation work already in its AMLIS inventory. The projected new funding levels from 2008 through 2017 will average \$3.75 million per year, which is slightly more than twice past funding levels. New Mexico's current updated cost estimates show \$26 million in unfunded coal hazards in AMLIS. Thus based upon projected funding levels and the size of the problem in the AMLIS inventory, it would take New Mexico over seven (7) years to complete its existing coal inventory. Some funds will likely need to be spent on hazardous non-coal abandoned mines within the State, which will likely extend this timeframe for completion of the AMLIS coal inventory.

In the past the New Mexico AML Program received grant funding of about \$1.5 to \$1.8 million annually.¹ These grants include administration, construction and future set-aside sub-accounts. New Mexico estimates that actual administrative cost averages between 20% and 30% of total funding, making the Program quite cost effective. Other than construction work, very little is contracted out by the Program as project development and engineering design work is done in-house. This has a lot to do with why the Program continues to be so cost effective. Administration sub-account costs appear to be high because the costs of project development are included in the Administration costs (not in construction costs) in New Mexico.

1 [Note: As a minimum program State (any state with outstanding priority-1 coal hazards that receives less than \$1.5M in any given year), New Mexico occasionally receives a small percentage of Federal-share money based upon its historical coal production prior to 1977. For example, New Mexico received \$193,742.00 in Federal-share distributions in 2004 and \$212,251 in 2005 in addition to its State-share funding.]

Grants and Financial Information:

As mentioned above, the undistributed State-share Balance for New Mexico as of June 30, 2006 is \$21,025,410.

The following AML grants were active during the evaluation period:

Grant Number	Grant Period*	Amount
GR307350	07/01/03 to 06/30/06	\$1,814,300.
GR407350	07/01/04 to 06/30/07	\$1,779,448
GR507350	07/01/05 to 06/30/08	\$1,637,421
S06AP12062**	07/01/06 to 06/30/09	\$2,998,187

* Construction Grants are awarded for a three-year period.

** S06AP12062 is not the actual annual NM budget, it includes set-aside funds that will be used over a 3-yr. period.

PART II. PROGRAM ACCOMPLISHMENTS

Protection of Bats / Habitat:

The New Mexico AML Program continues to make a dedicated effort to identify and protect bat populations that use abandoned mines for habitat. New Mexico AML installs bat grates as necessary to provide for bat access while restricting public access. Designs have included access panels for follow-up studies on the effectiveness of the bat-compatible closures and access by owls and small mammals has been incorporated into recent designs. In addition, the Program has contracted out Bat studies to the University of New Mexico.

Project Approvals:

The OSM-AFO reviewed grant applications, grant close out reports and project packages submitted for funding. OSM issued Findings of No Significant Impact (FONSI) and Authorizations to Proceed (ATP) for all projects submitted by the AML Program during the evaluation period. Materials prepared and submitted by the New Mexico AML Program for OSM review and approval are of excellent quality. During EY-2006, New Mexico submitted NEPA packages and OSM issued a Finding of No Significant Impact (FONSI) and an Authorization to Proceed (ATP) for the Granite Gap, Lake Valley Phase-2, Madrid North, Oro Grande Phase-2 and Bayard Niblett Projects. All submissions were found to be complete and adequately addressed all NEPA requirements. No new NEPA packages were submitted to OSM during EY-2007. Several projects were already nearing construction.

Overall Program Accomplishments to Date:

Beginning in 2004, OSM revised its 12 month oversight evaluation period to end on June 30 of every year rather than on September 30. Consequently, the new 12 month evaluation period (July 1 through June 30) splits the summer construction period in half. This makes reporting of annual accomplishments difficult and makes it almost impossible to have AMLIS data for the current year available by the end of the evaluation period. For example, any projects completed

after July 1st would not be reported until the following evaluation period.

In EY-2004, New Mexico projected its accomplishments data for the remainder of the year. This proved to be too difficult to do and to track. Consequently, in EY-2005 New Mexico AML and OSM agreed that no new AMLIS data would be reported for CY-2005 in the EY-2005 oversight report. This means that 2005 was a “lag year” in that the 2004 evaluation year included projects for work completed after July 1, 2004 and the 2005 report will not duplicate that data. As a result, the data in this EY-2007 report, and subsequent reports, will accurately reflect each previous year’s accomplishments.

New Mexico AML has funded or completed 166 AML Projects since the beginning of the Program in 1981. Approximately 82 of the 166 projects were coal and 84 were non-coal. This split coincides with the 2:1 ratio of non-coal to coal abandoned sites within the State.

Like most Western states, New Mexico is under a lot of public and political pressure to safeguard those hazards most accessible to the public. New Mexico has experienced eight (8) abandoned mine related fatalities in the last 40 years and numerous AML related injuries. These fatalities have placed a lot of attention and emphasis on the AML Program and have forced the Program to focus attention on several non-coal sites that were previously considered to be remote. Increased off-road recreational vehicle use has caused the SMCRA priority to be revisited for several sites in the inventory.

The 2006-2007 construction season added Lake Valley Phase-II (noncoal), Bayard-Niblett Mine Safeguard Project (non-coal), Ganite Gap Mine Safeguard Project (non-coal), Madrid North Mine Safeguard Project, Clum Mine Maintenance Project (non-coal), and the Lordsburg Mine Maintenance Project (non-coal project that did not start construction during EY-2007)

The 2005-2006 construction season added Lake Valley Phase I (noncoal), Lumberton (coal), Sugarite-Phase V (coal), Yankee Vukonich (coal), Gold Hill (noncoal), La Madera (noncoal) and Manhattan Mine Maintenance Project (noncoal).

The 2004-2005 construction season added Abbe Springs (copper), Sugarite Phase IV (coal), Cerrillos South (coal), Bogg Canyon (noncoal) and Spar Group (noncoal). In addition, some small maintenance projects were completed at Fluorite Ridge and Lordsburg.

Having completed 166 AML reclamation projects as of June 30, 2007, New Mexico AML has closed or safeguarded over than 3,190 hazardous mine features. Among these were some of the most hazardous features (such as vertical shafts) in the State. Although other serious hazards still exist, certainly lives have been saved and injuries prevented because of this work.

Substantial environmental degradation is typically associated with abandoned mines. The 166 reclamation projects completed as of July 2006 have certainly had a positive environmental effect on the State. These positive environmental effects can be measured in terms of protection of cultural and historic property, wildlife enhancement and protection of habitat, re-vegetation and associated decreases in erosion, improvements in water quality, improvements in air quality and overall a discernable improvement in the quality of life for the citizens of New Mexico. A lot of work remains to be done, especially with regard to abandoned non-coal mines.

Summary of EY-2007 Projects:

The following tables list projects that were either completed or in some phase of project development during EY-2007. Project development means site characterization, obtaining biological, archaeological or cultural / historic clearances for National Environmental Policy Act (NEPA) compliance and project design engineering including development of contract designs and specifications.

**AML Reclamation Projects in Construction or Completed
During the 2006 -2007 Construction Season :**

1.	Lake Valley – Phase II [BLM Land]	Construction is scheduled to start in September 2007.
2.	Lumberton Reclamation Project (coal)	Project completed July 2006. (Safeguarding of 3 portals and reclamation of seven gob piles on 4-acres).
3.	Sugarite Phase IV Coal Reclamation Project	Project completed (1-mile clogged stream, 1-acre haul road, 2-acres coal gob piles and 4-acres of dangerous piles and embankments)
4.	La Madera Reclamation Project	Safeguarded 12 portals, 4 vertical openings, 1-acre of spoil work.
5.	Madrid North Reclamation Project	Safeguarded 3 portals and 3 vertical openings.
6.	Lordsburg and Fluorite Ridge Reclamation Maintenance Projects	Backfilled one subsidence shaft and two subsided open stopes on previously reclaimed sites.
7.	Granite Gap Reclamation Project	Safeguarded 18 portals, 25 vertical openings, and 2 acres of spoil material.
8.	Bayard Niblett Reclamation Project	Safeguarded 1 portal and 5 vertical openings.
9.	Clum Mine Maintenance Project	Safeguarded or repaired 1 vertical opening.

AML Projects in Project Development during EY-2007:

1	Lake Valley Ph.-II Mine Safeguard	Construction contract awarded; construction to start in September 2007
2	Bradley Mine Safeguard	Project Development / NEPA work ongoing
3	Caballo Mountains Mine Safeguard	Preliminary reconnaissance
4	Carbonate Hill Mine Safeguard	NEPA underway; Archaeological report in process
5	Carrizalillo Hills Mine Safeguard	Preliminary reconnaissance
6	Carthage Gob Reseeding	Design completed, may bid out project in EY-2008.
7	Cerrillos Central Mt. Mine Safeguard Project	Archaeological report in progress
8	Cooke's Peak Mine Safeguard	Preliminary reconnaissance
9	Grants Uranium Ph.-III	Preliminary reconnaissance
10	Jones Coal Mine	NEPA underway
11	Kingston Mine Safeguard	Preliminary reconnaissance
12	La Ventana Ph.-III Coal	NEPA nearing completion
13	Lake Valley Ph.-III Mine Safeguard	Engineering reconnaissance completed; design underway; planning to bid out project in EY-2008
14	Lake Valley Ph.-IV Mine Safeguard	Preliminary engineering design complete; planning to bid out project in EY-2008
15	Orogrande Ph.-II Mine Safeguard	Engineering design underway
16	Rogersville Coal Reclamation	Archaeological clearance received; NEPA underway
17	Socorro West Maintenance	Engineering design underway
18	Sugarite Ph.-VI Coal Gob Recl. Project	Phase-VI is in the engineering design stage; planning to bid out in EY-2008
19	Waterflow-II Gob Recl.	Working on archaeological survey & NEPA compliance.
20	Vermejo Park Reclamation Projects	Reconnaissance completed. Work to be done in various phases. Possible remining or AML enhancement.
21	Zuni 21 Mine Safeguard	NMAML contracted out the archaeological survey for a USFS project; construction scheduled to start this year

PART III. RESULTS OF ENHANCEMENT AND PERFORMANCE REVIEWS

The oversight workplan for EY-2007 identified two topics or principles for annual review:

Principle 1: On-the-ground reclamation is achieved in a timely, cost-effective manner.

Principle 2: Progress in completing AMLIS Accomplishments

The goal of these principles is to evaluate the quality of on-the-ground reclamation work, to determine if the State is following its procurement process & federal contract requirements.

In evaluating Principle 1, New Mexico AML and OSM inspected reclamation sites, grants files, NEPA Documents, and contract specifications. This year the AFO conducted site inspections of the La Madera (noncoal), Granite Gap (non-coal) and Madrid North (coal) projects. In addition, in July 2007, OSM inspected a mine opening near downtown Gallup, New Mexico as a possible AML emergency. It was later determined that the mine opening did not qualify as an emergency. Representatives from the New Mexico AML Program sponsored and led OSM on the site inspection tours. No short or long-term problems were identified as result of the oversight inspections.

The New Mexico AML Program is a mature program, and past oversight has consistently documented high quality reclamation work. New Mexico AML Program staff and management maintained ongoing communication with OSM as needed throughout the evaluation period.

Principle No. 1 - On-the-ground reclamation –quality, accomplishments and cost-effectiveness.

There are no performance standards for AML reclamation set forth in SMCRA. OSM inspects field reclamation and may occasionally offer suggestions or recommendations. The New Mexico AML Program design engineer and Program Manager prepared detailed designs & contract specifications for all projects. No outside design consultants were hired or contracted. The internal design engineering together with New Mexico's contract bidding procedures, ensure that high quality and cost effective reclamation is routinely achieved.

Inspections of La Madera (noncoal), Granite Gap (non-coal) and Madrid North (coal) safeguard/reclamation projects, between July 1, 2006 and July 1, 2007, determined that reclamation work accomplished by the New Mexico AML Program, effectively safeguards the public. All reclamation sites inspected by OSM demonstrated that physical mine hazards posing a danger to people and wildlife were fully eliminated or safeguarded. A post-reclamation inspection of maintenance work on mine subsidence at the Madrid North project showed that the project had experienced additional subsidence shortly following the reclamation work. Unfortunately, this is difficult to prevent and may require additional maintenance. The underground workings at the site are not mapped and are unpredictable (private land).

Aside from the Madrid North maintenance, all reclaimed landscapes appeared to be stable. Revegetation efforts were in place to not only control erosion but also seed mixes were designed to enhance and protect threatened or endangered wildlife as well as non-threatened species. The reclamation completed in the southern part of the State were in very dry desert conditions so

only limited revegetation efforts were performed there.

This finding is consistent with past oversight evaluations that concluded that reclamation work accomplished under the New Mexico AML Program is overall of excellent quality and environmentally sound. All NEPA documents reviewed were well written, concise, and appropriately addressed all environmental concerns to the satisfaction of OSM-AFO. FONSI's and ATP's were issued without delay for all project packages submitted for approval and funding.

La Madera Mine Safeguard Project (completed):

This project site was inspected in June 2007. It is located about four miles north of La Madera in Rio Arriba County. The hazards being addressed stem from six abandoned mica (non-coal) mines that pose significant hazards to the public. The project safeguarded and reclaimed 16 mine features (16 mine openings were backfilled and another one was closed with a PUF closure, 4 adits were closed, one of which received a steel bat gate closure, disturbed areas were re-vegetated). The project started in September 2005 and was completed in October 2006. The Globe Mine adit was closed with a 4-foot culvert and a bat compatible closure (grate). The Contractor for the project was E&E Construction Company. No vandalism was evident during the inspection. The mines mined mica and micaceous clay. A clay pit was left at the request of local tribes to provide access to mica and clay for local potters (clay pottery). A historic loadout was left alone. All mine hazards were removed.

Granite Gap Reclamation / Safeguard Project:

An oversight inspection of this noncoal reclamation project was conducted in June 2007. The Project is located in Hidalgo County, New Mexico on both BLM and Private Land. The scope of the project includes the safeguarding of 25 vertical shafts and 18 portals. In addition, the project removed three prospects and reclaimed 2 acres of spoil material. Some areas were avoided due to cultural & historic protection requirements. In addition about 14 mine features were identified by New Mexico AML Program as critical bat and/or owl habitat and these features were safeguarded with bat and/or owl compatible closures. Construction observed established construction season windows / restrictions for the protected bat populations. Owl perches were added to several of the bat and owl compatible closures along with some small openings to provide access by small mammals. Three high-strength, zinc-coated steel mesh closures were used on the larger mine openings which were too large for bat grates. Bolts holding the steel mesh in place are installed 30 inches below the surface. One of these closures is referred to as a trench closure. Approximately 20 mine openings were backfilled. A bat Cupola was installed over a 300 foot vertical shaft at the May Lode mine. This closure was constructed of ¼-inch all-weathering steel.

Madrid North Mine Reclamation Project:

An oversight inspection of this project was conducted on July 10, 2007. This project entailed the safeguarding of a mine adit and two mine shafts on the west side of the highway and backfill of several subsidence openings on the east side of the highway. This is a relatively small project. The area on the west side of the highway was in excellent shape, too early for any natural invasion of vegetation to take hold. The backfilled subsidence area did not take as likely more subsidence is taking place and swallowing up the material already placed into the workings. This site will likely need additional maintenance next year.

Southwest AML Partnership – Field Tour Site Visits:

New Mexico AML Program sponsored the Southwest AML Partnership meeting in July 2007. As a result of the field tour, OSM was able to also visit two additional reclamation sites in the Raton, New Mexico Area. These are the Sugarite Project and the Yankee Vukonich Projects as discussed below.

1. Sugarite Gob Stabilization / Reclamation Project (Phase IV):

The multi-phase Sugarite AML Project is located just east of Raton, New Mexico within the Sugarite State Park. Huge volumes of coal gob (piles) exist at this site. Much of this material has been eroding into Chicoria Creek since the mine site was abandoned. The creek is situated right at the toe or base of the gob piles. Because the gob contains materials that are toxic to plants, little vegetation was previously growing on the gob piles and rainfall runoff resulted in huge erosion ditches throughout the face of the gob piles. The volume of the gob piles is so large that hauling of gob to relocate the pile is not an option for reclamation. Also, the State Historic Preservation Division will not allow removal of the gob waste.

The AML Program has been working to stabilize the gob piles in place. Another goal of the project is to improve the safety of the visitors to the park. There are several gob piles on both sides of the steeply sloping canyon. The project has been ongoing since 1998 and is being done in phases. Each phase addresses stages of reclamation work and different gob piles located in the canyon. The AML Program received the OSM Western Regional AML Reclamation award and the Peoples Choice Award in 2002, for this project.

Phases IV and V of the project are on the East side of the canyon with east facing slopes. These are the phases of the project that we saw during the partnership tour.

Overall, the reclamation technology being applied at the site is proving to be effective. Erosion is a planned aspect of the technology being applied to stabilize the site. Branch packing in the erosion channels, straw bale and coir roll terraces, and the overall revegetation of the site is proving to be even more effective than when the site was last visited. Branch packing is catching the eroded gob material as planned in the designed and is keeping the gob on site. The hope is that the branch packing should eventually stabilize the deeply incised erosion channels so that vegetation can be established in the drainages. Looking across the canyon to the east, the reclaimed (stabilized) slopes were thick with vegetative cover and it will only be a few more seasons before it will be difficult to spot the reclaimed areas from the natural mountain side.

2. Yankee-Vukonich Coal Reclamation Project:

This coal reclamation project is in a canyon approximately one mile east of the Sugarite Project in northern New Mexico (approximately 8 miles east of Raton). Six coal piles were stabilized and two small mine opening was closed by the project in 2004. The survival rate for the seedlings and revegetation on the gob piles estimated to be a 62% survival rate.

The abandoned mine site was littered with mining debris. The debris was also cleaned up as part of the reclamation work. Approximately ¼-mile of arroyo that contained coal mine waste material was reclaimed and a roadway was relocated in certain locations next to the channel. The existing drainage pattern was damaged by past mining so New Mexico AML restored the natural sinuosity of the channel. In addition, steep slopes surrounding the channel were stabilized and revegetated. Construction on the stream channel and access road started in May 2005 and was completed in August 2005. Vegetation is coming in quite well due to lots of rainfall. The side slopes of the stream channel were covered with grass over one foot tall. Very little erosion of the stream channel was visible. The reclamation was overall quite successful. The landowner was present on site and he was very happy with the final product.

Principle No. 2 - Progress in completing AMLIS Accomplishments.

AMLIS accomplishments during EY-2006 are reflected below in Tables-1 and Table-2 of Part IV of this report. Accomplishments specifically for 2006 are in bold blue print. The main items addressed from a hazard standpoint include 39 vertical openings and 37 portals. The Sugarite AML Reclamation project is an in-place coal gob stabilization project. It has had several phases of construction and most of the work was done by hand rather than with heavy equipment. This has been an expensive project but much less expensive than it would be to try to transport such huge volumes of gob material. Also, there is no good disposal area for such material nor would the State Park allow it. There are not good categories or key words in AMLIS to capture this workload or expense. However, this is good reclamation and innovative technology which is paying off handsomely. New Mexico has completed over \$17 M worth of AMLIS related construction work. Added to that is the project development work that is done by the program in-house, which would (if known) certainly substantially increase the dollar amount of work that the Program has devoted to these many accomplishments. Without a doubt, the New Mexico AML Program has continued to make significant strides annually in regard to its AMLIS coal inventory. Some years the Program dedicates more time or project funds to coal than other years, however the Program is always able to keep projects in the pipeline and make significant accomplishments. The staffing is small relative to the amount of work completed annually. New Mexico AML is given a high score for its 2006-2007 AMLIS accomplishments.

PART IV. AML INVENTORY STATUS & NEW MEXICO'S NEW IN-HOUSE DATABASE

Because very little surface coal mining occurred in the State prior to SMCRA, most reclamation work involves the reclamation of underground mine hazards. Although the acreage associated with underground mining is small relative to surface mining, the numbers of hazards encountered are high and the danger associated with these hazards is extreme. The New Mexico AML Program often refers to abatement of hazards such as mine openings and shafts and the removal of hazardous structures and facilities as “safeguarding” of the site.

The AMLIS database contains an inventory of priority-1, -2, and -3 hazards associated with

abandoned coal mines and a list of non-coal abandoned mines that have been funded (or completed). As previously mentioned in this report, EY-2006 accomplishments are reported in this EY-2007 annual evaluation report and EY-2007 accomplishments will be reported in the EY-2007 annual evaluation report. I.e., all future AMLIS entries will be reported one year out of phase. The following tables show AMLIS accomplishments for EY-2006 and cumulative accomplishments to date as of the end of EY-2006. EY-2007 data will likewise be reflected in tables of the 2008 annual evaluation report.

Table 1
New Mexico AML Reclamation Program
EY-2006 Accomplishments¹

Problem Type and Description	Completed EY-2006	Costs
Benchs	0.0 acres	\$0.
Clogged Stream Lands	1.0 miles	\$95,760.
Dangerous Highwalls	0 (count)	\$0.
Dangerous Impoundments	0 (count)	\$0.
Dangerous Piles & Embankments	0 (count)	\$0.
Dangerous Slides	0 acres	\$0.
EF-Equipment/Facilities	0 (count)	\$0.
Gasses: Hazardous / Explosive	0 (count)	\$0.
Gob (coal piles)	6.0 acres	\$287,080.
Highwalls	0 feet	\$0.
Hazardous Equipment & Facilities	0 (count)	\$0.
Haul Roads	1.0 acres	\$31,000.
Industrial/Residential Waste	0 acres	\$0.
Mine Openings	0 (count)	\$0.
Other	0 (count)	\$0.
Portals	37 (count)	\$251,377.
Pits	0.0 acres	\$0.
Polluted Water: Agric. & Indust.	0 (count)	\$0.
Subsidence	0.0 acres	\$0.
Spoil Areas	3 acres	\$5,966.
Surface Burning	0.0 acres	\$0.
Slurry	0.0 acres	\$0.
Underground Mine Fires	0.0 acres	\$0.
Vertical Openings	39 (count)	\$161,665.
Water Problems	0 (count)	\$0.
NEW MEXICO TOTAL COSTS		\$832,848.00

Note: This table is based on a Problem Type Unit and Cost Detail Report from the Abandoned Mine Land Inventory System. Neither AMLIS nor this table contains an inventory of un-reclaimed non-coal hazards.

¹ Table does not include all EY-2006 AMLIS Data. Because some 2006-2007 construction projects were still ongoing as of June 30, 2007, EY-2007 accomplishments will be included in the 2008 Annual Evaluation Report.

Table 2
New Mexico Abandoned Mine Reclamation Program
“Cumulative” AML Reclamation Accomplishments as of June 30, 2006

Problem Type and Description	Completed to Date	Costs
Benches	3.0 acres	\$7,301.
Clogged Stream Lands	2.0 miles	\$532,364.
Dangerous Highwalls	0 feet	\$35,100.
Dangerous Impoundments	0 (count)	\$0.
Dangerous Piles & Embankments	8.5 acres	\$368,900.
Dangerous Slides	0 acres	\$0.
EF-Equipment/Facilities	12 (count)	\$31,635.
Gasses: Hazardous / Explosive	0 (count)	\$56,563.
Gobs	124.0 acres	\$3,423,366.
Highwalls	0 feet	\$0.
Hazardous Equipment & Facilities	17 (count)	\$119,467.
Haul Roads	7.0 acres	\$66,300.
Hazardous Water Bodies	0.0 acres	\$0.
Industrial/Residential Waste	0 acres	\$0.
Mine Openings	4 (count)	\$122,140.
Other	0 (count)	\$163,052.
Portals	503 (count)	\$2,175,268.
Pits	2.0 acres	\$3,890.
Polluted Water: Agric. & Industrial	4 (count)	\$13,400.
Polluted Water: Human Consumption	1 (count)	\$34,710.
Subsidence	36.6 acres	\$4,617,644.
Spoil Areas	260.0 acres	\$134,910.
Surface Burning	35.0 acres	\$760,406.
Slurry	2.0 acres	\$421,782.
Underground Mine Fires	168.0 acres	\$234,983.
Vertical Openings	807 (count)	\$3,870,332.
Water Problems	0 (gal./min.)	\$0.
NEW MEXICO TOTAL COSTS		\$17,193,513.00

Note: This table is based on a Problem Type Unit and Cost Detail Report from the Abandoned Mine Land Inventory System. Neither AMLIS nor this table contains an inventory of un-reclaimed non-coal hazards. Non-coal hazards in New Mexico are not all inventoried in AMLIS. New Mexico AML estimates that an additional 2,000 un-reclaimed portals and 14,000 vertical openings exist in New Mexico that still require safeguarding (hazard abatement / reclamation).

PART V. Summary and Recommendations:

OSM considers the New Mexico AML Program to be an exemplary Program. OSM's review determined that the New Mexico AML Program is doing excellent reclamation and safeguarding work. The New Mexico AML Program makes cost-effective use of its AML funds while achieving quality reclamation. Attention is paid to details, contractors are required to fulfill all contract specifications in the field, and NEPA compliance is fully satisfied both prior to and during construction. In conclusion, all reclamation work is of high quality, timely, and consistent with contract specifications.

OSM views the New Mexico AML Program as a State partner in meeting mutual environmental goals and challenges. The Program has always been willing to provide assistance to other State and Tribal Programs and has established a cooperative, productive relationship with OSM. The New Mexico AML Program is an active member of the Southwest AML Partnership which functions to assist, educate and share resources in an effort to accomplish more with their limited AML funds. The 2006 SMCRA amendment while providing additional funding to the Program will impose additional workload and planning on the New Mexico AML Program. New Mexico has not yet indicated to OSM if it will increase staff or do additional contracting to handle the increase workload associated with increased funding. If it is decided that OSM funds are going to have different requirements depending upon the type or source of those funds, this will necessitate more complex accounting at both the federal and the State level. OSM is confident that the State can make good use of the improved funding levels and that it can handle the increase.

Madrid North Safeguard Project

Pre-construction



Post-construction



La Madera Safeguard Project

New Mexico
Reclamation
Specialist
Ray Rodarte
Evaluating
Final Construction
of Bat Compatible
Closure.

Note the Small
Mammal Access
Opening
at the Bottom.



Cultural /Historical
Mine Feature
Left Onsite.



Granite Gap Safeguard Project

New Mexico Archaeologist Loyd Moiola Inspects the Final Construction of one of three high-strength, zinc-coated steel mesh closures used on the larger mine openings that are too large for a conventional bat grate closure.



Wire Mesh is Securely Anchored Down by 30-Inch Long Metal Bolts.



Granite Gap Safeguard Project (Continued)

**Proof the
Bat Gates
Are Being
Used.**

**(Actually,
This Photo
Is At The
Clum Mine
Not Granite
Gap)**



Bat/Owl Cupola With Owl Perch Over a Vertical Shaft



Granite Gap Safeguard Project (Continued)

Pre-Construction Photo of Dangerous Vertical Shaft



Detail Photo of Bat Cupola
on Previous Page.

Note the Perch Just
Inside the Top Rung on the
Right Side.