



## IMCC 2012 Annual Meeting to be Held in Asheville, North Carolina

The Interstate Mining Compact Commission's (IMCC) 2012 Annual Meeting will be held from April 29 - May 2, 2012 at the Biltmore DoubleTree Hotel in Asheville, North Carolina. A registration form for the meeting accompanies this issue of "The Compact".

A welcoming reception will kick-off the meeting on the evening of Sunday, April 29. The opening session will begin on Monday morning, April 30 at 8:30 a.m. featuring speakers on noncoal issues. The speaker session will be followed by a joint meeting of the Mine Safety and Health and Noncoal Environmental Affairs Committees. A field trip via the scenic Blue Ridge Parkway to a North Carolina mine site (TBD) and the North Carolina Minerals Museum, followed by a networking dinner in the Little Switzerland area is planned for Monday evening.

On Tuesday morning, May 1, the Abandoned Mine Lands and Coal Environmental Affairs Committees will meet jointly. Personnel from the federal Office of Surface Mining will also attend the morning portion of the meeting. The Annual Awards Reception and Banquet will take place on Tuesday evening where the 2012 IMCC National Reclamation Awards and Minerals Education Awards will be presented.

IMCC's Finance and Administrative and Resolutions Committees will meet jointly on the morning of Wednesday, May 2, The Executive Commission Business Meeting will follow immediately and will conclude the Annual Meeting.

For more information, contact: Beth Botsis at [bbotsis@imcc.isa.us](mailto:bbotsis@imcc.isa.us) or by phone: 703.709.8654.

## IMCC Holds Benchmarking Workshop on Mine Mapping

The Interstate Mining Compact Commission (IMCC) held a Benchmarking Workshop on Mine Mapping on February 15 - 16 at the Sheraton Station Square Hotel in Pittsburgh, Pennsylvania. There were 75 attendees at the workshop comprised primarily of state representatives with some Office of Surface Mining (OSM) and Mine Safety and Health Administration (MSHA) personnel also in attendance.

On the morning of Wednesday, February 15, IMCC Executive Director Greg Conrad kicked off the workshop with a welcome and introductions leading into the first session on "Recent Developments and Innovations in GIS, Database and Scanning Technologies". The following presentations were included in this session: "Updating Legacy Programs - the New ARC GIS 10 and REST Services Technology" by Becky Meyer of Indiana; "New Scanning Technology" by John Hiatt of Kentucky; and "Use of Touch Table Technology" by Brianne Cassidy of OSM. The session ended with a roundtable and interactive discussion led by representatives from Indiana, Kentucky, Virginia, West Virginia and OSM. The second session on "Accuracy and Reliability of Mine Maps" included the following presentations: "A Perspective from MSHA" by Jim Pfeifer of MSHA; "A Perspective from the Mining Industry" by Brad Cole of CME Management; and

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### Upcoming Meetings:

#### IMCC 2012 Annual Meeting

April 29 - May 2, 2012  
DoubleTree Biltmore Hotel  
Asheville, North Carolina

#### IMCC 2012 Mid-Year Meeting

October 11 - 12, 2012  
Renaissance Blackstone Hotel  
Chicago, Illinois

For more information on IMCC Meetings as it becomes available, visit our website: [www.imcc.isa.us](http://www.imcc.isa.us) and click on the "Conferences" tab. Copies of IMCC's Compact Newsletter are also available on the website by clicking on the "Publications" tab.

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"A Perspective from the Illinois AML Program" by Robert Gibson of Illinois. Another roundtable and interactive discussion followed the presenters and was led by representatives from Pennsylvania, Kentucky, Illinois, West Virginia, MSHA and OSM. The identification of potential subsidence probabilities related to underground activity was included in the discussion.

The afternoon session covered the topic "Serving Out Mine Map Information on the Internet – 'Helping Customers Help Themselves'". Topics and speakers included: "Use of Virtual Servers and the Cloud for IT Management and Maintenance" by David Sanders of Virginia; "Searching State Databases" by John Hiatt of Kentucky; "Mine Map Database Enhancements" by Jim Britton of West Virginia; and "Delivery of Information to the Public" by Karen Berry of Colorado. Following a short break, Josh Rockwell of OSM spoke regarding an "Overview of OSM UGMM Applied Science Projects". The afternoon wrapped up with a roundtable presentation and discussion including state and federal perspectives on "Coordination of Mine Mapping Efforts – Increasing Efficiency and Saving Resources".

A session on "Archival and Storage Issues – Infrastructure Challenges" was held on the morning of Thursday, February 16. Speakers and topics included: "Preserving, Processing and Providing Access to Coal Mine Maps at the University of Pittsburgh" by Jeanann Haas, Amy Baker Williams and Debora Rougeux of the University of Pittsburgh; "Pennsylvania Historic Mine Map Digitization and GIS Implementation" by Patrick Jaquay of Pennsylvania; and "OSM Storage Infrastructure Enhancements" by Paul Coyle of OSM. An interactive discussion ended the session after which the workshop was adjourned for an optional field trip to the University of Pittsburgh Special Collections and Preservation Facility in which 52 attendees participated.

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### **IMCC Comments on OSM/BLM Merger**

The Interstate Mining Compact Commission (IMCC) presented comments at a public stakeholders meeting regarding the proposed consolidation of the Office of Surface Mining (OSM) within the Bureau of Land Management (BLM) on January 30, 2011 in Washington, DC. IMCC Executive Director Greg Conrad began his remarks by noting that over the course of eight stakeholder meetings, only one person spoke in lukewarm support of the consolidation with the vast majority of people outright opposing it. "This speaks volumes about whether Interior should even proceed with the realignment of OSM and BLM functions and certainly begs for further information about exactly what Interior has in mind with respect to the proposed action," Conrad noted. In both his oral remarks, and in written comments submitted to the Interior Department, Conrad emphasized the following:

- ▶ Interior's primary goal of getting the greatest value for the lowest cost is already being achieved under the Surface Mining Control and Reclamation Act (SMCRA), given the relatively small staff at OSM and the cost effectiveness that results from states serving as primary leads for regulatory and abandoned mine land (AML) programs.
- ▶ As part of its initiative, Interior should examine all new initiatives that add cost with little in the way of benefits, including OSM's federal oversight program and its proposed rule on stream protection.
- ▶ OSM has considerably more expertise and experience in administering the AML program and should therefore take the lead for both coal and hardrock AML.
- ▶ OSM's enforcement and inspection mission must remain independent from the coal leasing functions of BLM.
- ▶ OSM's current organizational structure should be closely examined as the preferred model for reporting and decision-making purposes.
- ▶ Any consolidation of functions must be done in a way that does not undermine the respective statutory mandates of OSM under SMCRA and BLM under the Federal Land Policy and Management Act.
- ▶ Interior should undertake both a federalism assessment and a cost-benefit analysis of the proposed consolidation before proceeding forward.

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## **IMCC/NAAML P Testify at House Legislative Hearing in Support of AML Amendments**

The Interstate Mining Compact Commission (IMCC) and the National Association of Abandoned Mine Land Programs (NAAML P) testified on February 17 at a legislative hearing held by the House Energy and Mineral Resources Subcommittee regarding H.R. 785. The bill, introduced by Rep. Steve Pearce (R-NM), would amend the Surface Mining Control and Reclamation Act of 1977 (SMCRA) to allow the use of certain payments from the Abandoned Mine Land (AML) Trust Fund to be used for noncoal AML reclamation projects and for acid mine drainage treatment associated with coal AML sites. IMCC and NAAML P strongly supported the measure and indicated that the urgency for moving forward with the bill has been heightened by the Administration's continued insistence on pursuing a legislative proposal that would emasculate key elements of SMCRA that were passed by Congress in 2006. H.R. 785 (which is identical to a Senate-passed bill, S. 899) would allow states and tribes who have not "certified" that their coal AML work is complete to use unappropriated state and tribal share balances for high priority noncoal AML work and for their acid mine drainage set aside accounts. The Office of Surface Mining (OSM) adopted a rule in 2008 that prohibited the states and tribes from doing so. IMCC and NAAML P also advocated for two additional amendments to SMCRA, one to clarify that the Act's limited liability protections are available to states and tribes who have certified under the Act and one that would clarify that NPDES permits are not required for coal ALM work. A copy of the IMCC/NAAML P statement is available by contacting IMCC.

In a related development, the House Committee on Natural Resources in a markup session on February 27 approved S. 897 and sent it to the full House for action.

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## **IMCC Testifies Re. OSM's FY 2013 Budget Request**

On March 6, 2012, Gregory E. Conrad, Executive Director of the Interstate Mining Compact Commission (IMCC), testified before the House Energy and Mineral Resources Subcommittee regarding the Fiscal Year (FY) 2013 budget request for the Office of Surface Mining (OSM). In its proposed budget, OSM is requesting \$57.3 million to fund Title V grants, a reduction of \$11 million from the FY 2012 level. IMCC testimony voiced strong opposition to these cuts on the grounds that OSM is attempting to reverse progress made by Congress over the past three years in adequately funding these programs, stripping them of funds that the states are still in the process of using to make needed program improvements. IMCC made the case that consistent federal funding will do much to stimulate support for the programs by state legislatures, and stressed that a 15% cut in federal funding generally translates into an additional 15% cut for overall program funding since many states can only match what they receive in federal money. IMCC also noted that OSM's solution of increasing user fees to "eliminate a de facto subsidy of the coal industry" shows a lack of understanding of the realities associated with establishing or enhancing user fees, and was rebutted by IMCC's polling of the states. The polling suggested that most member states would find this task to be impossible, especially within the time frame of only one year. In addition, OSM proposed a \$180 million cut in mandatory AML spending pursuant to a legislative proposal to eliminate all AML funding for certified states and tribes. IMCC adamantly opposed this reduction and asked that the Subcommittee restore the full mandatory funding amount of \$488 million because it directly contradicts 10 years of comprehensive restructuring of the AML program passed by Congress in 2006, as well as the Administration's goals concerning both jobs and environmental protection. IMCC also urged Congress to approve continued funding for the AML emergency program, which OSM's budget would completely eliminate, since this funding allows the states to address the unanticipated AML emergencies that inevitably occur each year.

IMCC testimony also included requests that the committee include language that would allow the use of AML funds for any required non-Federal share of the cost of projects by the Federal government for acid mine drainage (AMD) treatment or abatement, funding for OSM's training program, funding for Technical Innovative and Professional Services (TIPS) training (a program that benefits states by providing critical technical assistance), and funding for Watershed Cooperative Agreements.

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## **Senator Udall Seeks Ways for Good Samaritans to Clean Up Abandoned Hardrock Mines**

Recently, Senator Mark Udall (D - CO) spoke on the Senate floor about the ongoing pollution occurring at abandoned hardrock mines across the West, raising the issue to gain support from his colleagues to find ways for Good Samaritans to clean up those contaminated sites without assuming full legal liability for contamination they did not create. Udall recently sent a letter specifically asking the Environmental Protection Agency (EPA) for a policy that gives Good Samaritans some legal certainty for abandoned mine cleanups. Senators Michael Bennet and Barbara Boxer also signed the letter.

"Hardrock mine pollution is a terrible reminder of irresponsible mining in the West. Where Good Samaritans are willing and able to responsibly clean up pollution, leaving our treasured landscapes and watersheds better than they were before, we should do everything we can to support them," Udall said.

"Good Samaritans are too valuable of a resource to keep on the sidelines. Congress should do what is necessary to bring their efforts to bear on the cleanup of abandoned mine pollution," Udall concluded in the speech. "Good Samaritans can't solve all of our abandoned mine pollution problems, but we can't afford to turn away those willing to help any longer."

The mines pollute watersheds and endanger the health of communities and wildlife that depend on the clean water downstream. Udall has advocated for a fix to the problem since his days in the House. In 2009, Udall introduced the Good Samaritan Cleanup of Abandoned Hardrock Mines Act in the Senate (S.1777), which would free Good Samaritan volunteers to help clean up abandoned mines without taking on the liability. Since then, Udall has met with Good Samaritan groups to discuss their efforts, and he continues to work with the EPA to find a way to legally protect these groups that are willing and able to responsibly clean up polluted sites around the state.

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### **Army Corps Issues Final NWP Package for Coal Mining**

The U.S. Army Corps of Engineers recently published its final package of Nationwide Permits (NWP), including NWP 21 for surface coal mining, NWP 44 for mining activities, NWP 49 for coal remining activities and NWP 50 for underground coal mining. NWPs provide an expedited permit approval process pursuant to Section 404 of the Clean Water Act for certain activities that will result in minimal adverse environmental impacts.

While the Corps reinstated NWP 21 for Appalachia after suspending it in 2010, the agency has limited its applicability nationwide to surface mining discharges that impact no more than a half-acre of non-tidal water or 300 linear feet of a stream bed. The Corps also barred its use for valley fills altogether and included a broad definition of what constitutes a valley fill for purposes of NWP 21.

A safety valve is provided for some permittees currently operating under NWP 21. Those unable to complete their operations within the year provided by the Corps under its grandfather policy may be able to renew their permits without meeting the new limitations by petitioning the Corps by February 1, 2013. District engineers are also allowed to waive the limitations for issuance of new NWP 21 permits in consultation with the Environmental Protection Agency.

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### **OSM and BLM Extend Annual Award Nomination Deadline to March 30**

The Office of Surface Mining (OSM) and the Bureau of Land Management (BLM) have extended the deadline for accepting nominations for their annual awards recognizing exemplary examples of reclamation and sustained development until March 30, 2012.

OSM's 2012 Excellence in Surface Coal Mining Reclamation Awards given by OSM recognize outstanding reclamation methods and techniques for active coal mines. Surface coal mining and reclamation operations are eligible to win awards in three categories. The National Award recognizes coal mining companies that have achieved exemplary mining and reclamation practices. The Good Neighbor Award recognizes companies that have successfully worked with surrounding land owners and the community. The Director's Award is given to a coal company for outstanding achievement in a specific area of reclamation, and the 2012 award will be presented to a project for excellence in stream restoration. OSM's Call for Nominations with more information on the awards can be accessed here: <http://www.osmre.gov/topic/awards/docs/2012NomActive.pdf>.

The 2012 Reclamation and Sustainable Mineral Development Awards given by BLM recognize noncoal solid mineral development and operations that embody the principles of sustainable development or represent outstanding examples of reclamation or environmental stewardship. Operators are eligible to win the Hardrock Mineral Environmental Award, the Hardrock Mineral Community Outreach and Economic Security Award, the Hardrock Mineral Small Operator Award, the Hardrock Mineral Director's Award and the "Fix A Shaft Today!" (FAST!) Award. Additional information about the awards can be found here: [http://www.blm.gov/pgdata/etc/medialib/blm/ak/aktest/minerals/minerals\\_pdfs.Par.45984.File.dat/SUSTAIN%20%202012.pdf](http://www.blm.gov/pgdata/etc/medialib/blm/ak/aktest/minerals/minerals_pdfs.Par.45984.File.dat/SUSTAIN%20%202012.pdf).

The 2012 Department of the Interior Awards will be presented at a luncheon on September 26 hosted by the National Mining Association during MINExpo International® 2012 at the Las Vegas Convention Center.

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## President Obama's Proposed Budget Impacts Mining Regulatory Agencies

President Obama's proposed budget for Fiscal Year 2013 contains several provisions which will eliminate payments to states and tribes that have "certified" that their high priority coal abandoned mine land work is done under the Surface Mining Control and Reclamation Act (SMCRA) and impact budgets of several mining regulatory agencies. The president's budget includes provisions to create new fees for coal and hardrock mining to bring in government revenue from mining.

Provisions which will impact the mining states include the following:

- ▶ Proposing legislation on "hardrock mineral production on federal lands" that would include a new leasing process for minerals covered by the Mining Law, an annual rental payment and royalty of no less than five percent gross proceeds, and an increase in the annual maintenance fees for existing claims in order to raise about \$80 million over 10 years;
- ▶ Introducing a new fee on hardrock mining, similar to the one proposed for FY 2012, based on volume of "material displaced", with revenue to be used for abandoned mine land cleanup;
- ▶ Proposing to reform the coal abandoned mine land (AML) program by terminating unrestricted payments to states that have completed reclamation work;

In addition, the president's budget includes the following proposals for funding levels for various agencies:

- ▶ **Department of the Interior:** Holds overall budget at the current amount but cuts spending for state regulatory grants under SMCRA by \$9 million below FY 2012 enacted levels, proposes states recover more of their regulatory costs through user fees on coal mining operations and proposes raising \$3.4 million in permit fees to recover OSM's cost of managing permits.
- ▶ **Mine Safety and Health Administration (MSHA):** Requests a slight decline for the Department of Labor and a \$627,000 cut below the amount appropriated for MSHA in 2012. Spending priorities are mine safety enforcement (up by \$2.9 million) and reducing the backlog of pending cases before the Federal Mine Safety and Health Review Commission (up by almost \$17 million).
- ▶ **Environmental Protection Agency (EPA):** EPA's overall budget would be cut by \$105 million, but funding priority is reserved for implementation and enforcement of pending air quality standards for power plants.

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## EPA OIG Releases Report Identifying Poor Documentation for Coal Permits

The Environmental Protection Agency's (EPA) Office of Inspector General (OIG) recently released a report which found EPA Regions 3, 4 and 5 failed to properly maintain records in accordance with the Section 404 permit notification reviews, making it likely that EPA is unable "to determine whether its reviews have desired environmental impacts." The report concluded that because of inadequate documentation and poor record-keeping, "EPA risks being out of compliance with the Federal Records Act."

The OIG reported because EPA regional staff does not properly maintain records of reviews that did not result in EPA comment letters, it is impossible to determine which permit notifications regional staff reviewed and did not comment on and which notifications it did not review at all. In its initial November 21, 2011 report, requested by Senator James Inhofe of Oklahoma, ranking member of the Environment and Public Works Committee, the OIG noted record-keeping deficiencies that OIG said warranted further review.

EPA stated that the U.S. Army Corps of Engineers has primary record-keeping responsibilities. Acting Assistant Administrator Nancy Stoner nevertheless said it is EPA's "clear priority" to improve transparency in Section 404 permit reviews.

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## **MSHA Announces Reorganization**

The Mine Safety and Health Administration (MSHA) recently announced a reorganization that will “centralize its oversight of certain cross-cutting, compliance-related actions.” Under the new structure, MSHA’s Office of Assessments, Accountability, Special Enforcement and Investigations will, “incorporate the management, support and coordination of both routine and special assessments, as well as headquarters accountability functions and special enforcement strategies.”

MSHA will also create a new deputy director position for Investigations, Special Enforcement and Accountability to provide “centralized oversight of special investigations and special enforcement activities such as the POV [Pattern of Violations] and impact inspection programs,” among other functions. MSHA is also establishing a special enforcement and analysis branch to provide analytical and programmatic support for the new organizational structure.

MSHA will add “specially trained investigators for potential criminal and whistleblower issues,” consistent with the 2012 appropriations bill, which “realigned funding in support of this reorganization,” according to MSHA’s press release.

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## **House Committee Demands Interior Documents on Stream Protection Rule**

In a letter to Secretary of the Interior Ken Salazar in January, leaders of the House Natural Resources Committee demanded documents and communications related to the controversial development of the Stream Protection Rule (SPR). Committee Chairman Doc Hastings of Washington and Energy and Minerals Subcommittee Chairman Doug Lamborn of Colorado said the department has not responded adequately to the committee’s several document requests made months ago. The documents are required as part of the committee’s ongoing investigation into the rule and related allegations that the Office of Surface Mining (OSM) fired its original consultant after its analysis of the department’s preferred alternative revealed widespread job losses would result in the coal community.

“This is a serious matter that impacts the livelihoods of entire communities and the jobs of thousands of coal miners across the nation,” said the chairmen’s letter. “The Department’s failure to fully comply with repeated requests for information can no longer continue.” The committee is investigating the Obama administration’s rationale and process for replacing the 2008 Stream Buffer Zone Rule, which took five years of study to complete, with the SPR. The committee is specifically requesting documents leading to the decision as well as communications between the department and its fired contractor.

The chairmen threatened to subpoena the department if the requests were not provided within a week. An OSM spokesperson responded that the agency would continue to cooperate but has already provided more than 12,000 pages of communications to Congress as well as testimony before the committee. OSM is expected to publish the Stream Protection Rule and an accompanying Environmental Impact Statement by the end of the year.

In a related development, the House Committee on Natural Resources in a markup session on February 29, by bipartisan vote, passed H.R. 3409 which would prevent OSM from issuing a final rule on stream protection before December 31, 2013.