

**WRITTEN TESTIMONY OF TODD PARFITT**  
**DIRECTOR OF THE WYOMING DEPARTMENT OF ENVIRONMENTAL QUALITY**  
**BEFORE**  
**THE HOUSE NATURAL RESOURCES COMMITTEE**  
**SUBCOMMITTEE ON ENERGY AND MINERAL RESOURCES**

**HEARING ON:**  
**“Restoring Abandoned Mine Lands, Local Economies, and the Environment”**

**March 18, 2021**

Good morning Chairman Lowenthal, Ranking Member Stauber, and members of the House Subcommittee on Energy and Mineral Resources. My name is Todd Parfitt and I am the Director of the Wyoming Department of Environmental Quality (DEQ). I thank the Committee for inviting the State of Wyoming to share our perspective on the Abandoned Mine Land (AML) Program reauthorization at this hearing.

The mission of the Wyoming DEQ is “to protect, conserve and enhance the quality of Wyoming’s environment for the benefit of current and future generations”. As we carry out our mission, we do so with the understanding that it must be done in a manner that not only protects our natural resources but also strengthens the State’s economy. Administering a responsible and effective AML program is a key element to achieving the mission of the agency. The work of AML enhances the quality of our environment through mitigating the historic impacts associated with abandoned mines. DEQ is committed to managing our AML responsibilities in a cost-effective manner and to complying with the requirements outlined in the Surface Mining Control and Reclamation Act (SMCRA).

SMCRA was adopted by Congress in 1977. SMCRA includes Title V to address permitting, enforcement and reclamation for active coal mines. The law also created Title IV (The AML Program) to address reclamation of coal mines abandoned before 1977 where no responsible party exists. It is important to note the relationship between the Title IV and Title V programs. SMCRA requires that states have an approved Title V program in order to receive AML funds for a Title IV Program. An AML reclamation fee is assessed on each ton of coal mined for the purpose of conducting AML reclamation. Therefore, the AML reclamation activities are directly linked to the continued production of coal.

Wyoming’s Title V regulatory program was approved on November 26, 1980. The reclamation plan for the Wyoming Title IV program was approved by the Department of the Interior in 1983. Wyoming became a certified state on May 25, 1984. At the time of certification there was

limited information on the extent of reclamation needs across the state. Early work to build the inventory was essentially done through “boots on the ground”. Through the use of more sophisticated technology and as our understanding of historic mining in the state has improved, our AML inventory has continued to grow. Wyoming is not alone as a certified program. At this time, there are five certified states, including Wyoming, and three Indian tribes.

For certified states and tribes, Title IV directs AML funding to be used first towards reclamation of newly found coal and non-coal reclamation projects of equal or greater priority. After all coal and non-coal reclamation projects are funded, funds can then be used for public facilities. In compliance with SMCRA, Wyoming continues to be committed to developing a plan for addressing any newly discovered coal reclamation as those are found. Wyoming’s AML program has conformed to these requirements of SMCRA and has been consistent with the OSMRE approval of certification.

While there may be different challenges facing state programs, in the end, all programs have a lot in common:

- The desire to be effective stewards of the funding and be financially responsible.
- Comply with all requirements of SMCRA.
- Achieve the most effective reclamation possible to eliminate hazards to public health and safety.
- Improve the effectiveness of reclamation through the development and application of new technology and approaches to reclamation.
- Sharing experiences and new ideas between all AML programs.
- Take pride in the economic benefit that results from reclamation.

As noted previously, Wyoming’s inventory was small at the time of certification due to limited technology and having to rely on ground surveys. Since the inception of the AML program under SMCRA, through technological advances and the increased understanding we have gained through years of experience, Wyoming continues to update and add to our AML inventory. Advancements in technology has provided the ability to better map underground voids and features. Wyoming continues to conduct extensive field inventory surveys in areas that are considered of potential concern. This work focuses on areas with existing critical infrastructure (pipelines, transmission and distribution lines, roads, structures, etc.) that could be at risk. Field work has established that numerous historic underground mines pose a significant hazard and risk for several reasons. In some areas, mines that were depicted as being at certain depths were actually much shallower than indicated on historic mine maps. Many mines have also experienced progressive collapse with significant voids at very shallow depths posing serious risk to people and infrastructure.

The inventory maintained by the Wyoming AML program is not the same as the OSMRE reclamation inventory. Wyoming continues to conduct field inventories every year to determine if new projects need to be added to the inventory. The state inventory includes eligible projects that have not yet been added to the OSMRE inventory system. The Wyoming state inventory

system includes the design, clearance and construction management costs. The OSMRE inventory only addresses construction costs. The current Wyoming state inventory system has identified \$435 million in reclamation needs.

Some examples of what has been found include:

- Mine voids at about 5' in depth under a natural gas pipeline with shallow underground mine workings extending approximately one (1) mile along the pipeline.
- For 2,000 feet, a natural gas line lies over a shallow underground coal mine and a mine fire.
- Vertical collapse of an underground mine under the pipeline for cooling water to a power plant exposing the pipeline in numerous places. This left the pipeline suspended across the void.

Wyoming, like all other AML programs, experiences new features being discovered every year. In the spring and after rainfall events numerous new features are discovered. Those must all be addressed and some more urgently than others. As a result, the Wyoming AML inventory continues to grow every year. The results of each year's field work are tabulated and provides newly discovered coal projects and estimated costs. A plan has been developed to address how newly discovered reclamation needs will be addressed in future grant years. It is important to emphasize again that the newly discovered needs are almost entirely all high priority coal. Wyoming AML plans to expand field work in upcoming years which may also identify additional coal reclamation needs. It is clear that Wyoming's AML work is not done.

In Wyoming, people are moving further out into the country into areas not previously built out. Unfortunately, this sometimes results in people, unfamiliar with historic mining, building homes and other structures above underground coal mines. This then becomes a potential hazard requiring attention by AML. Additionally, the public are becoming more exposed to mine hazards through their access to public lands. Federal public lands in Wyoming such as Bureau of Land Management, Forest Service and National Park Service comprise about 48% of the state. In recent years, these lands have become increasingly utilized by the public for outdoor recreation. Abandoned mines that previously may not have been a high concern are becoming high priorities due to this increased use of public lands.

Fiscal responsibility is also a priority for the Wyoming AML program and it strives to put the greatest amount of our annual distributions directly into reclamation. For example, the administrative cost for Wyoming AML to manage the program has historically been at or below 4%. The Wyoming AML program relies on consultants to perform National Environmental Policy Act analysis, cultural and other necessary pre-construction activities which allows us to keep staff numbers low while maximizing the amount of funds that employ private sector consultants and contractors to conduct reclamation activities in the field.

Wyoming has accomplished a lot to date as a result of the AML funding:

- 25,593 acres reclaimed as habitat and range land.
- 2,496 mine openings closed.
- 628,000 linear feet of highwalls remediated (119 miles - approximately the distance from Washington, D.C. to Richmond, Virginia.).
- 604,000 cubic yards of grout placed (equivalent to 12 football fields 30 feet deep).
- 127 miles of impaired streams restored.

The Wyoming AML program benefits to the state and coalfield communities are not limited to the mitigation of hazards. AML reclamation also results in significant economic benefits to the state, local communities and citizens. For example, in Wyoming last year 782 people were employed for consulting and construction activities. For Wyoming, 782 jobs is significant. Due to the nature of the work and the skills needed, these are relatively high-paying jobs. In addition, there are secondary economic benefits from these contractors, from purchasing materials, fuel, lodging, food and more. Local coalfield communities benefit from employment of contractors and Wyoming residents. AML provides a stable source of work that contractors can rely on.

Wyoming AML works very closely with our federal partners, most notably the Office of Surface Mining Reclamation and Enforcement (OSMRE) and the Bureau of Land Management (BLM). OSMRE is directly engaged at every step in the AML process of prioritization and approval for project funding. In general, those steps are in the following order:

- Wyoming AML conducts a site investigation and prepares an eligibility package of information.
- All sites are reviewed by the Wyoming Attorney General's office to verify eligibility. That determination is in writing and included in the record.
- Sites are submitted to OSMRE for final decision on eligibility as part of the data entry process in e-AMLIS.
- All projects, both coal and non-coal, and their associated design and project management costs are specifically identified in a grant application, which must be approved by OSMRE.
- When a project design is complete and the project is ready to proceed to reclamation, Wyoming AML requests Authorization to Proceed (ATP) from OSMRE. Reclamation does not proceed until an ATP has been received from OSMRE.
- When projects are completed, a completion notice and completion data for those sites are entered into e-AMLIS.
- In addition to the above, Wyoming AML and OSMRE staff meet at least twice a year to discuss projects completed, projects underway and project planning and scheduling for the future.
- OSMRE staff perform annual field inspections at AML project sites to evaluate AML's progress and success as part of an annual review process.
- As noted above, OSMRE is involved in every step of the process and exercises their statutory responsibility at each step.

BLM is also a significant collaborator with Wyoming AML due to the considerable reclamation that occurs on lands managed by the BLM. As such, AML has developed a strong partnership with BLM to maximize the efficiency of the process and continually improve project outcomes. Over many years, Wyoming AML has worked to increase the success of our re-vegetation and habitat restoration programs associated with reclamation. AML has worked closely with BLM, NGOs and other partners to refine our seed mix requirements to further enhance re-vegetation success. The successful re-vegetation and habitat restoration of native plant species more closely resembles pre-mining habitat and surrounding undisturbed landscape. As a result, habitat is being restored in areas previously impacted by historic mining, resulting in benefits to wildlife such as deer and pronghorn antelope. A diverse native plant community also enhances habitat for Greater Sage-grouse that are extremely important to Wyoming and other western states.

BLM also relies on the expertise that Wyoming AML has developed regarding reclamation. Rather than developing a parallel program within BLM to conduct BLM AML reclamation, they rely on AML for assistance. BLM even provides some funding for AML reclamation on BLM lands under an existing cooperative agreement. This in turn results in reducing any duplication of effort between AML and our federal partners.

AML programs nationally have realized that it is important to develop mechanisms to share experiences and to inform those in the public who desire to know more about the program. As an example, the Wyoming and Pennsylvania programs collaborated to develop an educational/informational portal to demonstrate what AML programs have accomplished. As a result of those efforts a new website was created to share that information: Our Works Not Done. <https://ourworksnotdone.org> To date, 23 programs have signed on to the website and routinely post new information. All AML programs are dedicated to successful reclamation.

It is important to recognize that the coal industry has made significant contributions to date for funding the national AML reclamation activities. Since the beginning of the AML Program, total national fee collections amount to approximately \$10.2 billion, of which \$3.9 billion has been collected from Wyoming coal production. Of the \$3.9 billion collected in Wyoming 50% has been returned to Wyoming, minus sequestration. The 2020 national fee collection was \$119,286,000, of which the fee collection from Wyoming was \$69,936,000 or 59% of the total. This demonstrates the importance of Wyoming coal production to AML reclamation nationwide. It also demonstrates that the coal industry in Wyoming has been a major sponsor of the AML reclamation program. If reauthorization is approved, the coal industry will continue to be a partner in these efforts.

However, the coal industry faces economic headwinds that will continue into the foreseeable future. Coal production in Wyoming has decreased by 53% since the peak production year of 2008. Because AML fees collected in Wyoming flow to the uncertified programs to support their reclamation efforts, Wyoming and the uncertified state programs are directly linked. The health of the Wyoming coal industry is not only important to Wyoming but also to the sustainability of all AML programs nationwide.

The health of the coal industry in Wyoming is also extremely important for jobs, the support industries that provide services for the mines, and to the communities that rely on them. The

challenges facing the coal industry pose threats to the long-term stability of Wyoming coalfield communities. Serious consideration needs to be given to adjusting the reclamation fee downward. This would ease the burden on the coal industry and consequently provide a small measure of stability to communities who rely on the mining industry. Further, a reduction would provide a more predictable and reliable source of AML funding that is so important to Wyoming and coalfield communities nationwide.

In summary, Wyoming DEQ takes its reclamation and fiduciary responsibilities for implementing the AML Program seriously and with great pride. Since the inception of the State's AML Program, Wyoming DEQ has adhered to the requirements of SMCRA and has maintained a solid relationship with the regional OSMRE office.

Wyoming Governor Mark Gordon supports reauthorization that includes a reduction in the fee. It is important to recognize the value of AML reclamation but it is also important to recognize the significance of a healthy coal industry. The State of Wyoming supports reauthorization with a fee reduction to provide a measure of relief to the coal industry. This in turn provides support to coalfield communities that depend on the coal industry and AML fee collection that is so important to Wyoming and coalfield communities nationwide.

Thank you for the opportunity to provide Wyoming's perspective on these important matters.