

**Responses to Questions for the Record from Susan Kozak, Director, Soil Conservation and Water Quality Division, Iowa Department of Agriculture and Land Stewardship on behalf the National Association of Abandoned Mine Land Programs (NAAML) Re. a Hearing on “Restoring Abandoned Mine Lands, Local Economies, and the Environment” before the House Subcommittee on Energy and Mineral Resources – March 18, 2021**

**Questions from Rep. Lowenthal for Ms. Kozak:**

**1. What has been the experience of the states in implementing the AMLER Pilot Program? What challenges have you faced?**

In addition to the points raised in Mr. Stefanko’s response to a similar question, I believe it might be helpful to relate the experience of West Virginia, one of the AMLER Pilot Program states. From FY 2016 to 2020, West Virginia received \$130M in Pilot funding. During this 5 - year time span a total of 48 projects were selected and, of those chosen, 13 progressed to the construction phase, with only 5 reaching completion as of March 2021. The workload for those involved in implementing and administering the Pilot Program has now surpassed the annual workload to manage and complete traditional AML projects. Many Pilot projects are proposed by applicants/teams that lack construction experience and do not possess knowledge of the intricacies that accompany the Federal grant process. This greatly hinders the state’s ability to move Pilot projects to the groundbreaking phase. This also results in additional work for AML program managers, which in turn lessens their focus on the regular AML program. Pilot projects sometimes progress very slowly and therefore AML program managers essentially become “consultants” to keep projects on track. This takes additional effort and expense that could be better directed toward traditional AML reclamation goals. Finally, many of the projects that are proposed under the Pilot Program do not embrace actual AML reclamation work. They are simply located adjacent to an existing AML site listed on the inventory. Without actual reclamation work being accomplished, the money spent on AMLER projects does nothing to reduce a state’s inventory of hazardous public safety sites. While some Pilot projects hold great potential and will eventually provide the economic boost intended by the program, it is not a rapid or straightforward process due to the complications discussed above. In many instances it will most likely take several years before benefits are realized. West Virginia’s experience is representative of the challenges faced by other Pilot Program states.

**2. Do you believe the program is accomplishing the goals and objectives Congress set forth for the program?**

In many cases, Pilot projects will not create employment opportunities equivalent to coal industry job losses sustained in the Pilot Program states. With many coalfield communities being built around the coal industry, the creation of ten or twenty jobs generated from a Pilot project is not sufficient to fully revitalize these communities. Without a large anchor industry/business that attracts supporting businesses, the impact of creating one or two small businesses is negligible. The AML program is well established, proven, and very proficient in the abatement of hazards left by the legacy of coal mining operations. The longstanding AML Program should be utilized as the most effective and efficient use of the unappropriated balance if accelerated reclamation is the goal and is to be achieved.

### **3. How has your experience with the pilot program informed what we can anticipate under RECLAIM?**

Using AML Pilot to assess the potential future success of RECLAIM is a bit like comparing apples and oranges. Although rife with challenges, the AML Pilot Program does allow for the funding of brick-and-mortar projects, whereas RECLAIM would only be utilized for actual reclamation of AML sites. Furthermore, AML Pilot projects are not required to perform reclamation, or to be located directly on AML sites, but instead allow for the funding of ideas with the goal of economic stimulus. This is very different from RECLAIM, which requires a prior commitment from a partner to fund and implement a development project after reclamation has occurred.

Since the passage of SMCRA in 1977, the AML program has reclaimed thousands of sites nationwide. Many of these sites would not be considered ideal locations for future development because of their topographical features or the lack of demographics to support a business environment. AML sites are mostly privately owned, often located near homes and even beneath homes in some instances. They are often adjacent to streams with flooding potential or on mountainsides, neither of which are desirable locations for economic development. That being said, counties often provide data and information regarding land ownership, land stability, flood threats, utilities, etc. This has allowed for the identification of potential sites for economic development, but states often find that there is limited interest in actually moving forward with a plan. In some states, like West Virginia, there are existing industrial parks with infrastructure in place, but vacancies abound.

The intent behind RECLAIM has been incorporated in State and Tribal AML programs for over 40 years. For example, West Virginia has always worked with communities or developers when the reclamation of an AML site would promote economic benefits. Several examples are the Summit Bechtel Reserve (National Scout Camp), Beech Bottom Industrial Park, several sites located on public lands used for recreation, hunting clubs, as well as farming. Again, not all sites are conducive for post reclamation economic development, but those having the potential will continue to be prioritized. In short, when the physical site conditions allow, and a partnership exists, the traditional AML Program already accomplishes what RECLAIM assumes is not occurring.

Pilot states like West Virginia currently operate and maintain two programs: Traditional AML and AML Pilot, each incorporating its own set of criteria and rules. This has caused a significant strain on staff. RECLAIM would add a third “program.” We must take into consideration that implementing three programs, each having its own individual guidelines, will most likely hinder the effectiveness and efficiency of one, two or possibly all three. This likely outcome or scenario can best be described under the old cliché of being a “Jack of All Trades but a Master of None”.

A final thought: RECLAIM’s prerequisite for an AML reclamation project to hold the promise of economic development appears problematic, given the current inventory of reclaimed sites as well as available industrial/commercial sites. It should also be recognized that this requirement may result in selecting sites that do not meet the priority reclamation requirements established under Title IV of SMCRA. In this regard, it may be useful for OSMRE and the states to conduct an assessment of potential RECLAIM sites for economic development prior to changing funding criteria in order to determine what is factually feasible.