

JOSEPH G. PIZARCHIK

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PROFESSIONAL EXPERIENCE

Currently self-employed as principal of Pizarchik Advancements and work part-time as an independent advisor/consultant/lawyer in the fields of mining reclamation, reforestation, and water protection and improvements.

Director, Office of Surface Mining Reclamation and Enforcement (OSRME) 2009–2017
US Department of the Interior, Washington, DC

Served as director for the Office of Surface Mining Reclamation and Enforcement (OSMRE), a position requiring nomination by the president and confirmation by the US Senate. OSMRE is responsible for establishing a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations, under which OSMRE is charged with balancing the nation's need for continued domestic coal production with protection of the environment.

Major policy advances include:

- **REGULATIONS**

Promulgated the [Stream Protection Rule](#) to modernize 34-year-old rules using the best practices and scientific advancements from the past 30 years. The rule would protect or restore about 6,000 miles of streams and 52,000 acres of forests. It would reduce the dumping of mine wastes into streams and have required mine operators to restore the water quantity, quality, and aquatic community of streams they would temporarily impact. Permanent stream impacts were prohibited as well as off-permit water pollution. The rule would have created twice as many coal-mine operation and water monitoring jobs as it would have impacted.

- **REFORESTATION**

Reforestation of coal mines has been one of my priorities as OSMRE director. Since 1977 coal mining has eliminated more than 1 million acres of American forests; those trees have been replaced with invasive species such as paulownia, lespedeza, and multiflora rose, as well as nonnative grasses.

Through my efforts and those of the [Appalachian Region Reforestation Initiative](#) (ARRI), the number of trees planted in Appalachia increased from 35,000 trees on 37 acres in 2009 to 26,750 trees on 440 acres each of the past four years.

I also advocated the expansion of reforestation efforts nationwide. Currently OSMRE is working to advance the science of reforestation in Texas.

A significant part of the design of the [Flight 93 National Memorial](#) included trees on its 960 acres of reclaimed coal mine. The National Park Service (NPS) did not have the funding and

feared it would take as long as 20 years to complete the planting. Through OSMRE's efforts we partnered with NPS to use volunteers and donations to reforest the land; "Plant a Tree at Flight 93" has become a very popular annual event. In the first four years we reforested 105 acres and planted 70,000 trees.

In 1983 the Reagan administration added a loophole to the federal reclamation rules that allowed coal companies to avoid restoring native trees and vegetation after mining. The Stream Protection Rule would have closed that loophole.

- **HELPING COAL COUNTRY**

OSMRE places VISTA volunteers in places adversely impacted by abandoned coal mines and polluted water. During my tenure I doubled the number of volunteers in the [OSMRE/VISTA program](#).

We partnered with the Corporation for National and Community Service to create the [OSMRE/AmeriCorps](#) program. The 19 people in the latest cohort are working on such subjects as reforestation, potential impacts of mining on watersheds, and developing environmental studies curriculums for STEM schools.

We also partnered with the National Academy of Sciences for the first comprehensive scientific review of whether or not living close to a surface coal mine adversely impacts human health.

- **NATIONAL ENVIRONMENTAL POLICY ACT (NEPA)**

During my tenure we successfully improved OSMRE's Mine Plan Decision Document NEPA process to provide for public input and consider direct and indirect impacts of coal.

I instituted the first-ever process for comprehensive analysis of Indian land coal mining. Historically the Environmental Impact Statement (EIS) focused on each activity of the overall coal mining and electric power-generation complex individually. Now EISs include the coal mine, power plant, utility and transportation rights-of-way, coal combustion residues, and surrounding environment.

- **SMCRA IMPLEMENTATION**

OSMRE conducted the National Priority Review of state implementation of SMCRA requirement to restore the land's approximate original contour (AOC) and instituted enforcement action for AOC violations.

In Tennessee (where OSMRE is the regulatory authority), we improved the permit application process to be more efficient, shorter, less costly, and more protective. We also improved OSMRE's compliance with the Endangered Species Act by conducting consultation with US Fish and Wildlife Service on individual permit applications, better protecting threatened and endangered species, and providing more certainty to coal-mine operators.

We established the first coal mine Geographic Information System for four states and are now expanding it nationwide to improve efficiency and quality of coal mine permitting applications and decisions.

In order to enable OSMRE to fulfill its legal oversight obligations, we established policy, procedures, and responsibilities for conducting oversight of state regulatory programs. We also

provided strategies for OSMRE field office directors to timely resolve complex regulatory program problems. Finally, I reinstated longstanding policy and procedures for OSMRE to fulfill its legal obligations when OSMRE has reason to believe there is a violation of SMCRA, the state regulatory program, or a state-issued permit at a coal mine.

OSMRE completed the first comprehensive coal slurry impoundment stability review in West Virginia and is proceeding with reviews in additional states.

OSMRE hosted a conference on geomorphic reclamation of coal mines as part of my effort to advance the science of mine reclamation. The purpose of geomorphic reclamation is to reclaim the land to mimic natural land surface attributes so the land both looks and functions after mining as it did before mining.

- **BONDING**

I engaged officials in Kentucky and Pennsylvania to advance the correction of bond program deficiencies in their states.

We effectively preserved and pursued OSMRE's rights in bankruptcy proceedings of three largest coal companies regarding fulfillment of their reclamation bonding legal obligations.

OSMRE issued 10-Day Notices in four states for bonding issues.

I issued the first Self-Bonding Advisory, which provides guidance as to proper actions states should take during the American Energy Transformation in order that they and the mine operators fulfill the legal requirements of SMCRA.

I accepted a petition to modify our bonding regulations to address deficiencies. We identified several potential improvements and conducted four stakeholder outreach sessions to obtain input on what changes should be made to improve the rules.

- **DEALING WITH ABANDONED COAL MINES**

OSMRE funded the preservation and digitization of maps of abandoned underground coal mines

During my tenure, OSMRE created the nation's first Abandoned Mine Land Economic Revitalization Program to reclaim abandoned coal mines in order to provide local economic development opportunities in coal country.

- **REDUCED DEFICIT SPENDING**

OSMRE consolidated its workforce into smaller space, allowing it to reduce the amount of money it spends for office space.

SMCRA authorizes regulatory authorities to recover the cost to review, administer, and enforce coal mining permits. We modernized our rules to reduce deficit spending by about \$1.9 million per year.

- **PERSONNEL**

I advocated hiring more veterans. 41% of OSMRE's new hires are veterans, 14% of whom have physical limitations due to war injuries.

Recognitions

- 2016 Excellence in Reforestation Champion Award from the Appalachian Region Reforestation Initiative
- 2016 Mayfly Award from 18th PA AMR Conference
- 2012 Partners in Conservation Award from US Department of the Interior
- 2011 Outstanding Alumni Award, Penn State Altoona
- 2010 Alumni Fellow, Pennsylvania State University and Penn State Alumni Association

Director, Bureau of Mining and Reclamation

2002–2009

Pennsylvania Department of Environmental Protection, Harrisburg, PA

Managed the bureau that developed and promulgated Pennsylvania's regulations and policies for surface and underground coal mining, industrial mineral mining, abandoned underground mine collapse insurance, and blasting and explosives. Primary responsibility to develop regulations and policies to implement the law consistent with administration priorities after obtaining input from the regulated community and citizens.

Major policy advances include:

- Developed, promulgated, and implemented regulations to provide a legally enforceable permanent funding mechanism to pay for the perpetual treatment of post-mining pollutional discharges on forfeited mine sites.
- Worked closely with department counsel to find a legal solution to address a post-mining discharge in a manner that enabled progress to be made on the Flight 93 National Memorial without adversely affecting the environment.
- Developed and promulgated regulations to resolve conflicts on 47 legal points of contention among citizens, the underground coal-mining industry, the federal government, and the Commonwealth of Pennsylvania.
- Developed and implemented a policy to protect streams from underground mining subsidence without shutting down coal mining.
- Developed and implemented a policy to fairly resolve disputes between mine operators and homeowners over compensation for the increased costs associated with the replacement water supply.
- Developed and implemented the country's only security measures for explosive-storage magazine sites.
- Expanded mine-subsidence insurance coverage for structures located above abandoned underground mines and lowered premiums 25% for homeowners and 60% for businesses.

Assistant Director, Bureau of Regulatory Counsel

1998–2002

Office of Chief Counsel, Pennsylvania Department of Environmental Protection, Harrisburg, PA

In addition to duties listed below under Assistant Counsel, supervised five attorneys and support staff. Responsibilities included day-to-day management, advice to staff attorneys in their areas of specialization, and assistance in their professional development. Trained new attorneys.

Major accomplishments include:

- Developed the legal basis for a new financial instrument and drafted the appropriation language to facilitate Pennsylvania's conversion to conventional full-cost bonding for surface coal mines.
- Served as lead author of the team that drafted Pennsylvania's Environmental Good Samaritan Act. Testified before the 109th Congress regarding barriers to reclamation and the benefit of Good Samaritan legislation.
- Provided legal support and counsel in the development of Pennsylvania's mine-drainage treatment trust fund program.
- Successfully defended the Commonwealth in a regulatory taking claim that led to the most environmentally progressive regulatory takings test in the country. *Machipongo Land & Coal Co., Inc. v. Commonwealth of Pennsylvania*, 799 A.2d 751 (2002).
- Provided the legal basis for and assisted in the development of a new program to reclaim abandoned mine land at no cost to the government.

Assistant Counsel, Bureau of Regulatory Counsel

1991–1998

Office of Chief Counsel, Pennsylvania Department of Environmental Protection, Harrisburg, PA

Served as regulatory counsel for the mining program. Provided legal advice and guidance to the secretary, deputy secretaries, bureau directors, and their subordinates. Assisted the department in drafting regulations and statutes that govern mining and mining-related activities. Represented the department in litigation and negotiations with citizens' groups, the regulated industry, and the federal government. Researched and prepared legal opinions. Chaired Office of Chief Counsel Work Group on Local Zoning and prepared report for the Chief Counsel.

PROFESSIONAL ACTIVITIES

Interstate Mining Compact Commission

2002–2009

Pennsylvania representative in the Compact's activities. The IMCC works on mining matters on behalf of member states.

Mine Subsidence Insurance Board

2002–2009

Secretary's designee on the three-member board, which provides insurance for structures located above abandoned underground mines.

Pennsylvania Bar Institute's Environmental Law Forum

1996–1998, 2001

Faculty on "Regulatory Takings"

Office of General Counsel's Continuing Legal Education

2001–2002

Faculty on "Original Jurisdiction of Commonwealth Court" and "Water Supply Replacement"

Conference of Government Mining Attorneys (COGMA)

1994–2002

Treasurer. Assisted in planning of annual conference, prepared the Pennsylvania Litigation Update, and spoke at conferences on the subjects of alternatives to bond forfeiture, long-term-treatment trust funds, regulatory takings, and ethics and professional civility.

Admitted to the U.S. Supreme Court	2002
Admitted to the U.S. Third Circuit Court of Appeals	1995
Admitted to U.S. District Court, Middle District of Pennsylvania	1986
Admitted to Pennsylvania Bar	1983

ADDITIONAL EMPLOYMENT

Assistant Counsel 1986–1991
Office of Chief Counsel, Pennsylvania Department of Transportation, Harrisburg, PA

Provided legal advice and guidance to PennDOT employees, including deputy secretaries, bureau directors and their subordinates. Prepared contracts and reviewed and approved contracts for legality and form. Reviewed and assisted in the preparation of department regulations. Assisted attorney general and general counsel in department litigation. Advised department on Superfund issues and hazardous waste matters. Served as department counsel on Superfund site. Represented department in administrative hearings and served as administrative hearing officer. Served as counsel at quasi-judicial department hearings. Researched and prepared opinions relating to current legal issues.

Associate 1985–1986
Hoffmeyer & Semmelman, 30 N. George St., York, PA

Engaged in a broad general practice with emphasis in civil litigation, i.e., personal injury, negligent construction, easements, restrictive covenants, adverse possession, breach of contract, workers' compensation, and unemployment compensation. Experience in real estate closings, wills, employment discrimination, arbitration, and supervision of support staff.

Claims Counsel and Workers' Compensation Subrogation Supervisor 1984–1985
Rockwood Insurance Co., 654 Main St., Rockwood, PA

Handled coverage questions, bodily injury, property damage, and workers' compensation claims and supervised a regional branch office. Controlled the protection and collection of the workers' compensation subrogation claims. Arranged for legal representation in litigation and supervised case.

EDUCATION

Juris Doctor, University of Arkansas at Little Rock School of Law 1983
Legal Clinic, Trial Advocacy, Moot Court Judge, Student Bar Association
Bachelor of Arts, Pennsylvania State University 1979
Pre-Law; Honors: Dean's List

Additional professional training

Numerous continuing legal education courses on substantive law and ethics 2002–present



Insurance Institute of America, INS 23 Course (Casualty Insurance), Richland, PA

1984