

New report says good stripmining law is poorly implemented, pace of reclamation “shockingly slow”

Report released on 30th Anniversary of Rose Garden signing ceremony

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Billings, Mont. - State and federal agencies are not achieving the goals of a key law enacted 30 years ago today to protect society and the natural environment from damage by coalmining, according to a report released by the Natural Resources Defense Council and Western Organization of Resource Councils at a news conference this morning.

The report, *Undermined Promise—Reclamation and Enforcement of the Surface Mining Control and Reclamation Act*, reveals serious problems with land and water reclamation and inspection and enforcement of the law as well as with data collection and reporting.

Signed into law by President Jimmy Carter on August 3, 1977, the Surface Mining Control and Reclamation Act (SMCRA) set rules for surface mining and reclamation of mined land and provided for transfer of inspection and enforcement authority to states with approved programs. Congress intended to minimize harmful impacts of coal mining and to ensure either reclamation of mined lands to pre-mining conditions or to a beneficial post-mining use as contemporaneously as possible.

“Congress enacted a good law in 1977, but today it suffers from weak implementation and feeble enforcement,” said Helen Waller, a farmer from Circle, Mont., and WORC spokesperson. “We need a strong, vigorously enforced law to minimize the affects of coal mining on water, land, and the health and safety of local communities.”

Waller and her husband, Gordy, attended the Rose Garden ceremony in 1977.

Among the report’s findings:

- State regulatory agencies in the five states failed to conduct the required number of mine inspections 80 percent of the time.
- The rate of reclamation in the West is shockingly slow. The reclamation that does occur is frequently inadequate and fails to mitigate environmental damage.
- During the 10-year period covered by the report, 22,906 acres were released from all three phases of bonding, achieving successful reclamation as set out in SMCRA. That is just under six percent as much land as was disturbed by mining during the same period, roughly 400,000 acres.
- Western ranchers working with OSM and state regulatory agencies report a policy of benign neglect towards enforcing the water protection, replacement and restoration requirements of SMCRA. OSM tends to focus almost exclusively on revegetation.
- OSM failed to include critically important data in its published reports.

“OSM’s own data show that the agency and states are not achieving SMCRA’s fundamental objectives—timely and complete reclamation and thorough, effective enforcement,” said Johanna Wald, NRDC’s senior attorney and report author.

Ellen Pfister, a Bull Mountain rancher and member of the Northern Plains Resource Council, said SMCRA does not control impacts of the surface effects of longwall mining except at the mouth of the mine.

“I do not believe there is anything especially wrong with SMCRA, with the exception of not covering longwall mining, but I do believe that as an agency OSM has long been lacking intent to enforce SMCRA as it should be enforced,” Pfister said.

Pfister’s ranch north of Shepherd, Mont., has been subject to proposed coal mines since the 1970s. She testified before the House Natural Resources Committee in 1972 on a bill to temporarily ban stripmining and again on July 25, 2007 at an oversight hearing marking SMCRA’s 30th Anniversary. She worked for passage of SMCRA during the 1970s. Her ranch is affected by the Bull Mountain coal mine, a longwall underground mine.

Longwall mining is an automated form of underground coal mining, feasible only in relatively flat-lying, thick, and uniform coalbeds. A high-powered cutting machine passes across the exposed face of coal, shearing away broken coal, which is continuously hauled away by a floor-level conveyor system. Water supplies, land, and buildings are often damaged by subsidence after the coal is removed.

“There are good places and bad places to mine coal,” said Ed Swartz, a rancher from Gillette, Wyo., a member of the Powder River Basin Resource Council. He also attended the Rose Garden signing ceremony.

Swartz said the coal mines in Colstrip, Montana, and Gillette, Wyoming, are examples of good places to mine. “The Otter Creek tract in southeastern Montana and the Bull Mountains north of Billings are probably not good places to mine,” he said.

“SMCRA is a good model to follow,” Swartz added. “We need similar responsible legislation to protect surface owners, water, and taxpayers from irresponsible oil and gas drilling that’s occurring throughout much of the West.”

“We have reasonably tough, but workable, coal mining standards. We need the same for oil and gas production,” Swartz added.

Teri Blanton, with Kentuckians for the Commonwealth, addressed the social and environmental costs of mountaintop removal. She said mountaintop removal in the East has destroyed more than one million acres of one of the most diverse hardwood forests in the world and more than 1,200 miles of headwater streams between 1985 and 2001.

“Mountaintop removal was supposed to be the exception to the rule,” Blanton said. “It was to occur only in areas that could be converted to a post-mining use. That isn’t happening, and now mountaintop removal is the rule, not the exception.

“It’s much cheaper to blowup the mountains. Three million pounds of explosives goes off every day in Kentucky alone.

“We have failed – as a state, as a nation – to fulfill Congress’s vision – that mining would be a temporary use of land, that the mined land would be restored to beneficial uses, and that mining methods would be driven by proper planning and environmental protection rather than by profit,” Blanton said.

In mountaintop removal, mining companies access thin coal seams by razing forest, scraping the topsoil, and blasting off up to 800 feet of mountaintops with explosives to remove the mountain. In most cases, coal companies then dump millions of tons of former mountaintops into adjacent valleys.

“Although we don’t have mountaintop removal in the West, we do have aquifer removal,” said Nick Golder, a Rosebud County, Mont., rancher and Northern Plains Resource Council member. “Water is a serious matter in the West.”

Undermined Promise suggests eight policy recommendations:

- Require reclamation of water resources.
- Stop issuing permits for new mines or mine expansions in areas where strip-mined land remains unreclaimed after more than 10 years.
- Improve the bond release process.
- Strengthen terms of mine permits.
- Adopt a regulatory definition of “contemporaneous” reclamation.
- Improve reclamation success.
- Provide more funds to state agencies and OSM.
- Correct data problems.

WORC is a regional network of seven grassroots community organizations that include 9,500 members and 45 local chapters. WORC is committed to building sustainable environmental and economic communities that balance economic growth the health of people and stewardship of their land, water, and air resources.

NRDC is one of the nation’s most effective environmental action groups. It uses law, science and the support of its 1.2 million members and online activists to protect the planet’s wildlife and wild places and to ensure a safe and healthy environment for all living things.