United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

SEP 22 2015

The Honorable Rob Bishop
Chairman
Committee on Natural Resources
House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

Enclosed are responses prepared by the Bureau of Safety and Environmental Enforcement to questions submitted following the Committee's April 22, 2015, oversight hearing on "*Innovations in Safety Since the 2010 Macondo Incident.*"

Thank you for the opportunity to provide this material to the Committee.

Sincerely,

Christopher P. Salotti
Legislative Counsel
Office of Congressional and Legislative Affairs

Enclosure

cc: The Honorable Raul M. Grijalva
Ranking Member

Committee on Natural Resources
1324 Longworth House Office Building
Wednesday, April 22, 2015
9:30 AM

Oversight hearing on:

"Innovations in Safety Since the 2010 Macondo Incident"

Questions from Chairman Bishop for Director Salerno, Bureau of Safety and Environmental Enforcement

1. In the hearing, you responded that the lessons learned in the Gulf of Mexico will be employed in new areas, such as the Atlantic, and that exploration and production can be conducted safely. Can you explain where BSEE intends to have a regional office to better regulate this prospective development and how the Bureau intends to oversee operations?

   Answer: No decision has been made at this time regarding the location of a regional office to oversee exploration and production activities on the Atlantic Outer Continental Shelf (OCS). If regulatory or technical issues arise before the office is established, staff from our Headquarters and Gulf of Mexico offices will assist.

2. Can you please elaborate on the criteria used to furnish the economic analysis of your rulemakings.

   Answer: The criteria used to furnish economic analyses of BSEE's rulemakings are established by statute, Executive Orders and guidance from the Office of Management and Budget (OMB) for all Federal regulatory agencies. Most of these criteria are found in Executive Order (E.O.) 12866 and E.O. 13563, and associated guidance in OMB Circular A-4, "Regulatory Analysis" (Sept. 2003). In addition, agencies are required by the Regulatory Flexibility Act of 1980 to consider the economic impact of regulations on small entities, and agencies are required under the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104-4) to assess whether the effects of the regulation would include a mandate involving additional annual government expenditures of $100 million or more.

   BSEE looks at all available sources of data and uses a variety of data sources for its economic analyses. These include BSEE's own electronic databases, especially TIMS, which include information collected from industry reports and/or compiled by BSEE inspectors and other staff in the course of their duties. Other data are acquired from publicly available statistics from several agencies, such as energy prices and volumes from the Department of Energy, industry statistics from the Department of Commerce, and wage rates and the Consumer Price Index from the Bureau of Labor

Statistics. Additional data are acquired from trade association and professional association (e.g., Society of Professional Engineers) websites, and, where appropriate, from inquiries to knowledgeable and reliable sources within the affected industry, including BSEE's own subject matter experts with direct knowledge of relevant facts.

Data provided through public comment on proposed rulemakings also are invaluable sources of information that allow the agency to refine its economic impact analysis.

3. Given the complexity of the well-control rule and how it will work in concert with the proposed Arctic rule, can you provide a schedule for expected implementation?

   Answer: Both the Arctic rule and the well control rule are proposed rules published for public comment. All relevant comments will be reviewed and considered by the Department before any final rulemaking decisions are made. During the comment review and preparation of the final rules, the Bureaus will reconcile any potential overlap in the rules and will consider the appropriate implementation schedules for both rulemakings.

4. How is BSEE working with industry to encourage further safety innovations for future operations?

   Answer: For decades, BSEE and its predecessor bureaus have communicated with industry to encourage safety innovations through Regional and Headquarters administered programs and functions. These interactions occur through any number of fora including formal review processes, sharing the results of significant permit reviews and incident investigations, participation in conferences and technical fora and through technical research projects focused on operational safety and pollution prevention.

   For example, BSEE uses the results of incident investigations and data analysis to identify incident causes and trends. Appropriate actions are then identified to prevent the recurrence of these incidents and to enhance safety and environmental protection on the OCS. These actions may include publishing Safety Alerts, initiating technical research, developing new/revised regulations or standards, enhancing inspection strategies, and holding safety workshops. BSEE uses these tools and practices to inform the offshore oil and gas industry and our international counterparts of the circumstances surrounding an incident or a near miss, and to provide recommendations to help prevent the recurrence of such an incident on the OCS.

   BSEE and industry also engage with each other in technical forums, meetings on specific topics or practices, regulations workshops, and the development of technical standards. At the present time, BSEE incorporates over 100 technical standards into its regulatory program. The standards include equipment specifications, operating practices, equipment manufacturing, and hydrocarbon measurement. Currently,

BSEE is working with industry on a variety of standards-related issues to improve safety on the OCS. These standards include deepwater operations, Safety and Environmental Management Systems, cementing, cranes and lift operations, operations in high pressure high temperature environments and safety valves.

While BSEE continues to promote new technologies and safety innovations through these means, more recently BSEE has broadened its exposure and influence through new and evolving programs, such as:

The Best Available and Safest Technologies (BAST) program. As part of the initiative, BSEE engineers continuously identify and assess new and emerging technologies that have been recommended for or have the potential for use in the OCS. BSEE engineers engage designers, Original Equipment Manufacturers, service providers, distributors and others to assess the capabilities of technology as potential BAST and, where possible, witness qualification testing to assess performance and risks.

Safety and Environmental Management System (SEMS). As part of our implementation of the SEMS program, BSEE has formulated over 20 questions on how SEMS can be used to encourage further safety innovations in OCS oil and gas operations, and has asked the Ocean Energy Safety Institute (OESI), a research consortium sponsored by BSEE and run by Texas A&M, University of Texas and University of Houston, to conduct workshops and forums with industry and other stakeholders, to provide BSEE with answers to those questions.

Ocean Energy Safety Institute (OESI). In 2013, BSEE established the OESI, a consortium of the University of Texas, University of Houston and Texas A&M. It is housed in the Texas A&M Mary Kay O'Connor Process Safety Center. The OESI was established to facilitate research and development, training of Federal workers on BAST, and implementation of operational improvements in the areas of offshore drilling safety and environmental protection, blowout containment and oil spill response.

The OESI provides a forum for dialogue, shared learning, and cooperative research among academia, government, industry, and other non-governmental organizations, in offshore energy-related technologies and activities that ensure safe and environmentally responsible offshore operations.

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Washington, DC 20240

SEP 09 2015

The Honorable Doug Lamborn
Chairman, House Natural Resources Subcommittee on Energy and Mineral Resources,
United States House of Representatives
Washington, D.C. 20515

Dear Chairman Lamborn:

Enclosed are responses prepared by the Office of Surface Mining Reclamation and Enforcement (OSMRE) in response to questions received following the March 18, 2015 hearing before your Subcommittee regarding the OSMRE's Fiscal Year 2016 budget request.

Thank you for the opportunity to provide this material to the Subcommittee.

Sincerely,

Christopher P. Salotti
Legislative Counsel
Office of Congressional
and Legislative Affairs

Enclosure

cc: The Honorable Alan Lowenthal
Ranking Member

Committee on Natural Resources
Energy and Mineral Resources Subcommittee
March 18, 2015, Hearing on FY 2016 Budget Request

Questions from Chairman Bishop

1. **In your testimony, the budget proposal seeks to take $1 billion from unappropriated balances in the Abandoned Mine Reclamation Fund to build new development opportunities and new jobs in communities impacted by abandoned mine lands, which I believe you call the POWER+ Plan.**

    - **How do you define "new development opportunities?"**

Answer: States and Tribes working in collaboration with local communities and economic development partners are encouraged to identify projects where reclamation of lands and or polluted waters can eliminate impediments to a community's economic development. These new development opportunities are projects that demonstrate the planned economic and beneficial use of an abandoned mine land site upon reclamation. Such uses include but are not limited to:

- Siting of a business or secondary business activities that contribute to the property tax base of the community.
- Job creation;
- Increased recreation/tourism activity;
- Reforestation; and,
- Agricultural or horticultural production.

    - **How do you define "communities impacted by abandoned coal mines?"**

Answer: The prioritization criteria discussed in the POWER+ Plan provides the parameters as to how "communities impacted by abandoned coal mines" are defined such that AML resources target coal country communities that have suffered the economic costs of abandoned coal mine lands and polluted waters.

OSMRE encourages States and Tribes, working with the local community and economic development authorities, to help define these coal country communities. These communities can be broadly interpreted as a region with one or more subdivisions (e.g. counties) in which priority has been given because it meets one or more of the following:

- An unemployment rate that is, for the most recent 24-month period for which data are available, at least one percentage point greater than the national average;
- Per capita income that is, for the most recent period for which data are available, 80 percent or less of the national average per capita income;
- Coal mining employment loss over the previous 5 years; and
- Furthermore, if the reduction in coal mining related activity has not occurred over the past five years, a State or Indian Tribe may make a demonstration in which the Secretary concurs, that the

project is located in an area that: (i) has traditionally relied on coal mining for a substantial portion of its economy; and (ii) the economic contribution of coal mining has significantly declined.

2. **In your testimony, there is a request for increased reclamation fees that will be used "to reclaim priority abandoned mine sites and address over $4 billion in remaining dangerous high priority AML sites nationwide."**

    a. **Would that money go into the Abandoned Mine Reclamation Fund?**
    b. **If so, why take $1 billion from the fund for other purposes such as the POWER+ Plan?**

Answer: The funds from the increase in the reclamation fees would be collected one year and disbursed to uncertified states the following year so that those states can reclaim high priority coal problems under the current law. Restoring the fees to their original 1977 amounts in FY 2016 is expected to provide $49 million in additional AML funds to states in FY 2017. The total current inventory of unreclaimed AML problems by some estimates is over $9 billion. The need is far greater than the amount of money that will be collected at the current rates, even considering the amount of money in the AML fund.

Under current law, the unappropriated balance of the AML fund will not be distributed until FY 2023 and thereafter. The Power+ Plan will disburse $1 billion over five years from this unappropriated balance of the AML fund to perform additional reclamation of land and water adversely impacted by pre-SMCRA coal mining. The proposal is to use the money now. The need for such reclamation is great, and has been for decades. The Power+ Plan will enable economic development while upholding our AML obligations and support an industry in transition.

3. **Your testimony says that OSM needs legislative language to be able to do the POWER+ Plan. Do you have draft language? If so, please attach it.**

Answer: A copy of the proposal was shared with subcommittee staff on July 16, 2015, and a copy is included with these responses.

Committee on Natural Resources
Energy and Mineral Resources Subcommittee
March 18, 2015, Hearing on FY 2016 Budget Request

Questions from Rep. Lamborn

1. **OSM's budget justification document notes that States and Tribes directly regulate 97 percent of the Nation's coal production under approved regulatory programs. The agency's budget also notes the reduced workload anticipated by OSM.**

   - **With the states responsible for most of the regulatory work why does OSM ask for $5.5 million increase while cutting the states grants by more than $3 million?**

   - **What is OSM planning to use the extra $5.5 million for?**

Answer: OSMRE's budget request of $65.5 million is expected to fund the federal share of state and tribal regulatory programs at the maximum level allowable under SMCRA. It does not represent a loss of regulatory grant funding. Appropriate prior year carryover funds will be provided in the event of any shortage.

For the Regulation and Technology Account, OSMRE is requesting a net increase of $5.7 million, including funding for fixed costs for pay and other items, and funding for program monitoring and support services. The programmatic increases support improvements and investments in technology to better implement SMCRA.

These would support: additional technical staff to better implement current laws and provide better technical assistance to States/Tribes; the development and maintenance of data applications for electronic permitting and Federal cost recovery; expansion of the GeoMine Project (a coal mining geographic information system) that is used to share data among States, Federal agencies, industry and the public and enhances efficient and quality decisions; funding for States and universities to conduct technical studies specific to coal mining activities; and dedicated staff, including youth employment opportunities to expand reforestation of reclaimed coal mine sites.

2. **With fewer coal mines producing today than two years ago, it would seem that OSM should be cutting its own budget not increasing it.**

   - **Has OSM completed an analysis of the trends in operating coal mines over the past few years?**

   - **If so why has OSM not adjusted its budget downward to match the trend?**

Answer: Since 2000, the OSMRE workforce has been reduced by over 33 percent. OSMRE has assessed its requirements to review, inspect, and maintain permits as part of its proposed Federal Cost Recovery Rule and has recommended reductions in its budget based on the estimated costs to carry out those functions where OSMRE is the regulatory authority. Where OSMRE conducts state program evaluations, staff in its regions conduct an annual analysis of staffing needs for

oversight and inspections based on the number of inspectable units. Staff work with State Regulatory Authorities and tribal leaders in developing annual plans. Reductions in compliance reviews due to fewer operations are considered during these discussions. The majority of the increases requested in OSMRE's FY 2016 Budget will invest in technology and technical expertise to support the regulatory and reclamation operations.

3. **According to OSM's budget justification document more than $8 billion in industry AML fees have been appropriated, but the cost of reclaiming the priority 1, 2 & 3 AML sites has been only about $2.5 billion.**

   - **Can you explain where the remaining $5.5 billion was spent?**

   - **Can OSM provide us with an accounting of all the expenditures to date under the AML program in terms of amounts that were spent on each priority and how much was for federal and state overhead costs?**

Answer: Between 1978 and 2014, approximately $8 billion has been appropriated as discretionary and mandatory funding from the AML Reclamation Fund. Revenue deposited into the Fund is derived from AML fees and interest earned on the Fund. Appropriations have provided $5.1 billion for AML grants to States and Tribes to reclaim abandoned sites. The States and Tribes have obligated these funds according to the purposes set forth in SMCRA, which include:

- 50%, or $2.5 billion, was spent on construction costs for coal AML Priority 1, 2, and 3 projects completed as of September 30, 2014.
- 14%, or $700 million, is the estimated construction costs of coal AML projects funded and not yet completed.
- 7%, or $355 million, is estimated to have been spent by AML States and Tribes for administrative costs from 1998 - 2014.
- 5%, or $223 million, is estimated to have been placed in acid mine drainage set-aside funds by States; these set-aside funds are authorized to be placed in interest bearing accounts for operation and maintenance of water treatment systems to clean up abandoned mine water pollution.
- The remaining 24% is estimated for expenditures such as:
  - Technical support that is not specifically tracked and not included as part of the completed project's cost. These costs include: 1) Planning processes for the use of AML grants (e.g. interagency review and coordination, consultations and documentation for compliance, such as the National Environmental Policy Act compliance); 2) Project design (e.g. preparing engineering designs, engineering estimates, feasibility review of potential reclamation methods); and 3) State/Tribal oversight costs (e.g. inspections, site visits).

- Expenditures associated with the initial start-up cost of States and Tribes establishing their own AML programs and building capacity to implement the programs (e.g. AML inventory, staff, training, field equipment, vehicles, etc.).
- Administrative costs prior to 1998. This may include coordination for bids, contracts, and grant activities.
- Non-coal construction costs.

Of the remaining $2.9 billion appropriated as discretionary and mandatory funding from the AML Fund, $1.3 billion was derived from interest earned that has been transferred to certain health care plans administered by the United Mine Workers of America (UMWA) Health and Retirement Funds since 1996. The remaining $1.6 billion was available to carryout activities related to environmental restoration and other requirements, including: annual appropriations supporting OSMRE's AML operating expenses since FY 1978; Federal reclamation project administration and construction costs for emergency and high priority projects in States and Tribes without an AML reclamation or emergency program. In addition, OSMRE provided funding to States for the Small Operator Assistance Program and to the Department of Agriculture for the Rural Abandoned Mine Program in the past, though these programs are no longer funded. Finally, funds were appropriated and provided to States for specific purposes, such as AML emergencies.

OSMRE does not track expenditures at a level of detail to provide total expenditures and overhead costs by priority. Since 1977, over 368,000 equivalent acres of priority 1 and 2 public health, safety, and associated environmental related coal problems have been reclaimed. OSMRE has developed a national inventory that contains information for more than 21,000 problem areas associated with abandoned mine lands, mostly coal. A problem area is a uniquely defined geographical area that contains one or more abandoned mine land problems. Therefore, construction costs for more than one problem area related to one or more priorities may be addressed under each approved, funded project.

As described above, overhead and technical support is not included as part of the completed costs, by priority, in the inventory. The AML Accomplishments table that appears in OSMRE's budget request presents AML problem types, construction costs for completed reclamation, and estimated remaining reclamation construction costs for each of the problem types. OSMRE's FY 2016 budget requests funding to evaluate AML program implementation, including identifying more effective and efficient tools for AML site identification, contract management and program oversight.

4. **With less than $1 out of every $3 AML dollars going to priority AML work, how can the Administration be proposing to increase the AML fees on the coal industry?**

Answer: Of the $8 billion in appropriated funds, $5.1 billion, or 64 percent of the funds, have been provided to States and Tribes since FY 1978 with the primary objective of reclaiming abandoned coal mine sites and for other authorized uses.

An additional $1.3 billion of the appropriated dollars have been transferred to the United Mine Workers Association as required by SMCRA; and the remaining $1.6 billion was available to carry out activities related to environmental restoration and other projects.

With regard to the proposal to restore AML fees to historic levels, when Congress passed SMCRA in 1977, it determined that abandoned mine lands and mine drainage adversely affect commerce and the public welfare by destroying or diminishing the utility of land for commercial, industrial, residential, recreational, agricultural, and forestry purposes. While progress has been made, significant un-reclaimed AML problem sites remain. In light of the number of remaining problems associated with the legacy of AML from coal mining, the budget proposes to return these coal fees to historic levels that will be used to continue the reclamation of priority abandoned mine sites.

5. **I'm glad to hear that OSM recognizes the importance of science-based decision-making. Namely the policy on OSM's website states that:**

   "Scientific and scholarly information considered in OSMRE decision making must be robust, of the highest quality, and the result of as rigorous scientific and scholarly processes as can be achieved. Most importantly, it must be trustworthy. This policy applies to all OSMRE employees, including political appointees, as well as, contractors, cooperators, partners, permittees, leases, grantees, and volunteers when they engage in, supervise, manage, or influence scientific and scholarly activities, or communicate information about OSMRE and the Department's scientific and scholarly activities, or utilize scientific and scholarly information in making agency policy, management or regulatory decisions."

   - **What is OSM's position on transparency in science based decision-making?**
   - **Who owns the products (reports, data, publications etc.) of research funded by taxpayer dollars?**

Answer: The OSMRE believes there should be transparency in science-based decision-making. OSMRE is committed to using good science in both its abandoned mine land and regulatory programs. The findings in scientific research that OSMRE funds undergo professional peer review, and are properly cited, to ensure accuracy that may be required in future decision-making.

OSMRE funds all studies through cooperative agreements with universities using Federal funds where the research is conducted. The reports and data generated from these studies are the property of the general public. All data collected as part of any study is accessible to the public when the researchers finalize the data and report.

6. **The OSM budget requests an additional $1.2 Million for research grants for states and universities. I appreciate the importance for research in advancing the manner in which coal is more efficiently, economically and safely extracted. I also understand the fact that a good portion of this money goes toward educating future experts in the mining industry. Or at least that's what should be happening, however, OSM's Budget Justification lists 18 projects on your books in 2014 and only ONE went to a professor in a mining engineering program.**

   - **Why is this money not making its way to the very experts in the academia and research sector at our mining schools?**

   - **Are you seeing a shortage of mining engineers at OSM either now or in the future?**

   - **If OSM anticipates a shortage of mining engineers what steps is the agency taking to address this issue?**

Answer: The OSMRE's Applied Science Program was initiated to promote the development and demonstration of improved technologies to address public safety and environmental issues related to the mining of coal and the reclamation of lands affected by mining. The Applied Science program is open to all universities and other research institutions, states, and interested parties with expertise in mining-related technologies and applications.

A request for Applied Science funding is solicited through a Request for Proposal (RFP) that is posted on OSMRE's website and on Grants.gov; therefore, the RFP is accessible to all persons with an interest in pursuing Applied Science financial assistance. Proposals submitted for consideration must address one of several topics or issues presented in the RFP. These areas of interest are high priority topics selected by the OSMRE Director after being identified by the OSMRE's National Technology Transfer Team (NTTT), which is comprised of state and tribal members, as well as representatives from the Interstate Mining Compact Commission, the National Association of Abandoned Mine Land Programs, and the Western Interstate Energy Board. Previous high priority topics have focused on coal mine reclamation, geomorphic reclamation practices, stream protection, acid mine drainage, and other relevant topics that support the practical applications needed to carry out, on the ground, the Surface Mining Control and Reclamation Act of 1977.

The broad nature of these topics present opportunities for a wide variety of persons or entities specializing in various disciplines (i.e., universities with mining or environmental-related curricula) to participate in the Applied Science process.

After submittal, the RFPs are evaluated by an Applied Science Review Team and subjected to a competitive review and evaluation. The RFPs are then scored and ranked based on various criteria and submitted to the OSMRE Executives and Director for consideration of funding. Due to the competitive process followed in the Applied Science Program, funding is awarded to those persons or entities with the greatest potential of a successful project resulting in improved mining and reclamation practices through one or more of the high-priority topical areas.

Since the OSMRE Applied Science program started in 2005, 63 funded projects are complete or in the process of being completed. Fifty of these projects have been funded through universities, including 28 projects funded at universities with mining programs. Although most of these projects addressed public safety and reclamation issues and not mine development and operations, the Applied Science projects and the universities benefited from the project investigators being at universities associated with mining programs.

At the present time OSMRE employs 10 mining engineers, distributed throughout the three Regional Offices, and the Program Support Division in Headquarters. The mining engineers represent a valuable resource within OSMRE's portfolio of mission critical occupations, focusing on work involving:

- Federal Program permitting, bonding and litigation
- Federal Lands mine plans, permitting, bonding, and compatibility determinations
- Technical assistance in supporting OSMRE and State personnel
- Subsidence prediction & mitigation
- NTTP and TIPS training and support
- Technical Support in OSMRE rule-making activities

At the present time, identified workload demands exceed current mining engineer supply by approximately three FTEs. However, some of the OSMRE priority workload demands are currently being addressed by augmenting our mining engineer workforce with related disciplines—such as civil engineers, physical scientists, and other program specialists. Under OSMRE's Workforce Plan, we expect the supply and demand for Mining Engineers will be balanced by the end of FY 2015, and that no further actions will be required.

Committee on Natural Resources
Energy and Mineral Resources Subcommittee
March 18, 2015, Hearing on FY 2016 Budget Request

Questions from Rep. Lowenthal for Mr. Joe Pizarchik, Director, Office of Surface Mining Reclamation and Enforcement (OSMRE)

1. **How is OSMRE considering health studies as part of its work in developing the Stream Protection Proposed Rule?**

Answer: As contained in the draft environmental impact statement for the stream protection rule, published in July, we are considering the impacts of coal mining on human health and related research. It also describes how the alternatives differ in terms of impacts on public health.

2. **What is your position with regard to the so-called "War on Coal" that the Administration is accused of conducting?**

Answer: There is no war on coal. The Administration is committed to safe, responsible coal production and the jobs it supports. Coal has played a critical role in our country's energy portfolio for generations and will continue to be an important source of energy. Market forces such as abundant cheap natural gas, an over-supply of coal, and low prices are largely responsible for the current coal bust cycle.

Along with responsible oil and gas development and the growth of clean renewable energy, coal is an important component of our nation's energy portfolio. This Administration has provided several billion dollars for clean coal technology and continues to support clean coal technology, research and development. Clean coal technologies are vital to the future of this industry. They will allow for the continued production of coal while promoting our nation's economy and public health. The Administration has proposed clean coal tax credits to support existing coal power plants. It has provided millions of dollars of health care support to protect retired coal miners and their families. The Administration has also proposed $3.9 Billion to protect additional coal miners and their families.

In addition, through the Power+ Plan the Administration is committed to promoting the economic well-being of communities affected by a decline in coal development. The Power+ Plan will disburse $1 billion over five years to perform additional reclamation of land and water adversely impacted by pre-SMCRA coal mining. The proposal is to use the money now. The need for such reclamation is great, and has been for decades. The Power+ Plan will enable economic development while upholding our AML obligations and support an industry in transition.

Committee on Natural Resources
Energy and Mineral Resources Subcommittee
March 18, 2015, Hearing on FY 2016 Budget Request

SECTION 1. ECONOMIC REVITALIZATION FOR COAL COUNTRY.

Title IV of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1231, *et seq.*) is amended by adding at the end—

'**SECTION 416.** Abandoned Mine Land Economic Revitalization.

'(a) IN GENERAL. – From amounts deposited into the fund under section 401(b) prior to October 1, 2007, and not otherwise appropriated, $1 billion shall be made available to the Secretary, without further appropriation and in the amount of $200 million annually in each of the five fiscal years beginning in fiscal year 2016, to be distributed to the states and Indian tribes in accordance with this section for the purpose of promoting the economic revitalization, diversification, and development in economically distressed communities through the reclamation and restoration of land and water resources adversely affected by coal mining carried out prior to August 3, 1977.

'(b) USE OF FUNDS.—Funding provided under subsection (c) shall be used only for those projects in which a state or Indian tribe makes the following determinations, in which the Secretary concurs—

'(1) RECLAMATION OF AML LANDS AND WATERS.—The project is designed to achieve one or more of the priorities stated in subsection (a) of section 403;

'(2) CONTRIBUTION TO FUTURE ECONOMIC DEVELOPMENT.—

'(A) The project is reasonably likely to create favorable conditions for the economic development of the area; and

'(B) Demonstration of such conditions shall be made by—

'(i) Submitting documentation of the role of the project in the area's economic development strategy or other economic development planning process; or

'(ii) Any other means that document the planned economic use of the site after the primary reclamation activities are completed, which may include contracts, agreements in principle, or other evidence that, once reclaimed, the site is reasonably anticipated to be used for one or more industrial, commercial, residential, or recreational purposes.

'(3) LOCATION IN AREA AFFECTED BY RECENT DECLINE IN MINING.—

(A) The project is located in an area that has been adversely affected economically by a reduction in coal mining-related activity over the previous five years. Demonstration of such conditions may rely on employment data, per capita

income, or other indicators of reduced economic activity attributable to the recent decline of coal mining in the area; or

(B) If the reduction in coal mining-related activity has not occurred over the past five years, a state or Indian tribe may make a demonstration, in which the Secretary concurs, that the project is located in an area that –

(i) has traditionally relied on coal mining for a substantial portion of its economy; and

(ii) the economic contribution of coal mining has significantly declined.

'(4) STAKEHOLDER COLLABORATION.—The project has been the subject of project planning under subsection (e) and has been the focus of collaboration, including partnerships, as appropriate, with –

'(A) state or tribal agencies focused on environmental protection and economic development;

'(B) local governmental entities;

'(C) organizations concerned with water quality improvement, habitat restoration, and economic and community development; and

'(D) any other interested persons or organizations.

'(c) DISTRIBUTION OF FUNDS.— (1) UNCERTIFIED STATES.—From the amount made available in subsection (a), the Secretary shall distribute $195 million annually for each of the five fiscal years beginning in fiscal year 2016 to states and Indian tribes that have an approved reclamation program under section 405 and have not made a certification under section 411(a) in which the Secretary has concurred in the following amounts —

'(A) FOR FISCAL YEARS 2016 AND 2017.—For each of fiscal years 2016 and 2017, funds shall be allocated through a formula based on the amount of coal historically produced in the state or from the Indian lands concerned prior to August 3, 1977;

'(B) FOR FISCAL YEAR 2018-2020.—For each of fiscal years 2018-2020, funds shall be allocated in either—

'(i) the same amount as that state or Indian tribe's fiscal year 2016 allocation, plus any amount reallocated to the state or tribe under this paragraph, if the state or tribe has committed the full amount of its previous year's allocation to eligible projects; or

'(ii) the same amount as that state or Indian tribe has committed to eligible projects in the previous fiscal year if the state or tribe has not committed the full amount of its previous year's allocation to eligible projects and if that amount does not exceed the state's or tribe's fiscal year 2016 allocation.

'(C) FOR FISCAL YEAR 2021.— For fiscal year 2021, the amount reallocated to the state or Indian tribe pursuant to this paragraph, if that state or tribe has committed the full amount of its fiscal year 2020 allocation to eligible projects.

'(D) REALLOCATION OF UNCOMMITTED FUNDS.—

'(i) FOR FISCAL YEAR 2018-2020. For fiscal years 2018-2020, any amount available for distribution under this subsection that has not been committed under this paragraph or distributed under paragraph (2)(C) in the prior two fiscal years shall be reallocated among each state and Indian tribe that has committed the full amount of its annual allocation to eligible projects for the previous fiscal year.

'(ii) FOR FISCAL YEAR 2021. For fiscal year 2021, any amount available for distribution under this subsection that has not been committed under this paragraph or distributed under paragraph (2)(C) in any prior fiscal year shall be reallocated among each state and Indian tribe that has committed the full amount of its annual allocation to eligible projects in fiscal year 2020.

'(iii) AMOUNT TO BE REALLOCATED. Subject to the availability of funds, the amount of reallocated funds that each state or Indian tribe will receive shall be determined by the Secretary based on the demonstrated need for the funding to accomplish the purposes of this section and, to the extent practicable, to reflect the proportion of unreclaimed eligible lands and waters the state or Indian tribe has in the inventory referred to in section 403(c).

'(E) SUPPLEMENTAL FUNDS—Funds distributed under this section shall be in addition to and shall not affect the amount of funds made available to states and Indian tribes pursuant to section 401(f) and shall not reduce any funds otherwise allocated pursuant to section 402(g)(8) for minimum program states.

'(2) ADDITIONAL FUNDING TO CERTAIN STATES AND INDIAN TRIBES.—

'(A) ELIGIBILITY.— From the amount made available in subsection (a), the Secretary shall distribute $5 million annually for each of the five fiscal years

beginning in fiscal year 2016 to states and Indian tribes that have an approved reclamation program under section 405 and

'(i) have made a certification under section 411(a) in which the Secretary has concurred; or

'(ii) receive an allocation under 402(g)(8)(A).

'(B) APPLICATION FOR FUNDS.—Using the process in section 405(f), any state or Indian tribe described in subparagraph (A) may submit a grant application to the Secretary for funds under this subsection. The Secretary shall review each grant application to confirm that the projects identified in the grant application for funding are eligible under subsection (b).

'(C) DISTRIBUTION OF FUNDS.— The amount of funds distributed to each state or Indian tribe shall be determined by the Secretary based on the demonstrated need for the funding to accomplish the purposes of this section.

'(d) ACID MINE DRAINAGE TREATMENT.—(1) Subject to the limitation in paragraph (2), a state or Indian tribe that receives funds under this section may retain such funds as are necessary to supplement the state's or tribe's acid mine drainage abatement and treatment fund, established under section 402(g)(6)(A), and shall use those funds for future operation and maintenance costs for the treatment of acid mine drainage associated with the individual projects funded under this section.

'(2) A state or Indian tribe may retain and use funds for the purposes authorized in this subsection only if the state or tribe can demonstrate that the annual grant distributed to the state or tribe pursuant to section 401(f), including any interest from the state's or tribe's acid mine drainage abatement and treatment fund that is not used for the operation or maintenance of pre-existing acid mine drainage treatment systems, is insufficient to fund the operation and maintenance of any acid mine drainage treatment system associated with an individual project funded under this section.

'(e) PROJECT PLANNING AND ADMINISTRATION.— (1) As a prerequisite to receiving funds under this section, in fiscal year 2016, the state or Indian tribe shall designate up to ten percent of its distribution for project planning, during which the state or tribe shall collaborate with stakeholders and other interested persons as described in subsection (b)(4) and, to the extent practicable, identify eligible projects, update the inventory referred to in section 403(c), develop project designs, prepare cost estimates, and engage in other similar activities necessary to facilitate reclamation activities under this section. A state or Indian tribe may also use a portion of funds received under this section to pay the cost to administer this program.

(2) Of the amounts available in the fund established in section 401(a) that have not otherwise been –

(A) allocated to the states and Indian tribes under paragraphs (1), (5), or (8) of section 402(g); or
(B) appropriated under this Act,

the Secretary may expend, without further appropriation, not more than $3 million annually to pay for staffing and other administrative expenses necessary to carry out this program.

'(f) DEFINITION.—For purposes of this section –

(1) the term "committed" as used in subsection (c) means that the state or Indian tribe receiving funds has submitted those projects to the Secretary as part of its annual grant application pursuant to section 405(f) and the Secretary has concurred that the identified projects are eligible under subsection (b). For fiscal year 2016, this term will also include any amount used for project planning under subsection (e).'

SEC. 2. TECHNICAL AND CONFORMING AMENDMENTS.

The Surface Mining Control and Reclamation Act of 1977 (SMCRA) (30 U.S.C. 1201, *et seq.*) is amended –

(a) in section 401(c) by:

(1) striking "and" following paragraph (10) and inserting "(11) for the purpose described in section 416; and";

(2) redesignating the remaining paragraph;

(b) in section 401(d)(3) by striking "subsection (f)" and inserting "subsections (f) and section 416(a)";

(c) in section 402(g) by:

(1) inserting "and section 416" after "subsection (h)" in paragraph (1); and

(2) adding "(F) For the purpose of section 416(c)(2)(A)" after paragraph (3)(E); and

(d) in section 403(c) by:

(1) inserting "any of" after "which meet" and striking "paragraphs (1) and (2) of" in the first sentence;

(2) inserting after the second sentence "As practicable, states and Indian tribes shall offer amendments based on the use of remote sensing, global positioning systems, and other advanced technologies."; and

(3) adding at the end "The Secretary may perform any work necessary to amend any entry in the inventory that has not been updated by a state or Indian tribe within the past three years to ensure that the entry is up-to-date and accurate."