

## **STATUS OF THE ABANDONED MINE LAND RECLAMATION FUND (AML FUND) FOR THE AML FEE-BASED RECLAMATION PROGRAM**

*September 30, 2022*

### **Background**

As of September 30, 2022, a total of approximately \$12.010 billion in industry AML fees including interest earned was collected in the Abandoned Mine Land Reclamation Fund (AML Fund) and that will be reported in the Office of Surface Mining Reclamation and Enforcement's (OSMRE) Fiscal Year 2024 Annual Budget Justifications Report. This amount does not include the last two months of the AML fee collection cycle (i.e., October 1 – November 30) which extends beyond the Federal Fiscal Year end of September 30, 2022. The information provided also pertains only to the AML Fee-based Reclamation Program and does not include data from the Bipartisan Infrastructure Law (BIL) AML Program or the Abandoned Mine Land Economic Revitalization (AMLER) Program.

The AML Fund experiences a spike in fee collections during the final two months of the collection cycle and based on this consistent trend, OSMRE established protocols to ensure that state and Tribal AML programs receive the maximum amount of benefit from the AML Fund by calculating these annual formula-based AML grants after November 30 rather than at the end of the Federal Fiscal year. Consequently, the Fiscal Year 2023 AML Fee-based Grant Distribution reports a slightly higher amount collected in the AML Fund and interest earned for a total of more than \$12.111 billion of AML fees including interest earned as of November 30, 2022. The two main sources of information for the AML Reclamation Program are the Financial Business Management System (FBMS) and the enhanced Abandoned Mine Land Inventory System (e-AMLIS).

FBMS is the enterprise system used by the Department of the Interior (DOI) and its Bureaus for recording transactions, controlling and reporting in the functional areas of acquisition, budget execution, core finance (including financial consolidation and reporting), financial assistance (e.g., grants and cooperative agreements), fleet management, personal property, real property and travel. FBMS is DOI/OSMRE's system of record that contains comprehensive information on AML grant allocations and expenditures for the Surface Mining Control and Reclamation Act (SMCRA) Title IV AML Reclamation Program.

E-AMLIS contains different information from FBMS and serves a different purpose. E-AMLIS only provides information on the direct construction cost to reclaim AML features and was never designed to be a project management tool. E-AMLIS is the central electronic database for recording the national inventory of AML priorities, and the information contained in e-AMLIS is provided by states and Tribes. E-AMLIS provides information on the accomplishments of the AML program, determining AML grant awards annually, and helps states and Tribes assess their own inventory when making funding decisions. The majority of the data in e-AMLIS represents coal AML priorities which include, for example, features such as gob piles, subsidence, and highwalls.

### **Current Status**

The AML Fund amount was approximately \$12.010 billion as of September 30, 2022 (*\$10.193 billion collected in AML fees and \$1.817 billion in interest earned*). This amount is broken down as follows:

- \$9.799 billion or 82% represents the *appropriated* or awarded amount that OSMRE has been authorized to distribute in accordance with SMCRA.
- \$2.211 billion or 18% remains *unappropriated* in the AML Fund which is not yet available for disbursement. This amount is allowed for earned investment activities that is transferred to three health care plans administered by the United Mine Workers of America (UMWA) Health and Retirement Funds.

Of the \$9.799 billion *appropriated* from the AML Fund, approximately \$6.287 billion (or 64% of the appropriated amount) was provided as AML fee-based grants to states and Tribes to reclaim abandoned mine lands and polluted waters. The states and Tribes have allocated and/or spent these funds according to the purposes set forth in SMCRA, which include:

- a) \$3.646 billion was spent on *construction costs* for coal AML Priority 1, 2, and 3 projects<sup>i</sup> completed and for projects funded but not yet completed as of September 30, 2022, based on e-AMLIS.<sup>ii</sup>
- b) \$57 million as reported in e-AMLIS was spent on *construction costs* for non-coal AML Priority 1, 2, and 3 projects completed by uncertified states as of September 30, 2022.<sup>iii</sup>
- c) \$131 million as reported in e-AMLIS was spent on *construction costs* for both coal and non-coal problems previously authorized by SMCRA. These designated priorities included Priority 4 and Priority 5 problems, non-mining related activities, and water supply restoration.<sup>iv</sup>
- d) \$286 million is the estimated amount reported in e-AMLIS spent on *construction costs* for non-coal AML Priority 1, 2 and 3 projects completed by certified states and Tribes before the 2006 SMCRA Amendments were enacted.<sup>v, vi</sup>
- e) \$495<sup>vii</sup> million is the estimated amount expended/allocated by AML states and Tribes for administrative costs from 1998 - 2022.
- f) \$437 million is estimated to have been placed in acid mine drainage and future set-aside funds by states; these set-aside funds are authorized to be placed in interest bearing accounts for operation and maintenance of treatment systems.
- g) \$1 billion is estimated for the following expenditures:
  - i) Expenditures associated with the initial start-up cost of states and Tribes establishing their own AML Programs and building capacity to implement and maintain their AML programs (e.g., staff, training, field equipment, vehicles, lease office facility, office equipment, salaries, etc.).
  - ii) Administrative costs prior to 1998. This may include coordination for bids and contracts, grant activities, staff training, field equipment, office equipment, and salaries.

iii) Indirect reclamation costs such as technical support which are not included in the completed costs for construction or reclamation activities in e-AMLIS. These indirect reclamation costs are grouped into administrative costs and include:

- Planning processes for the use of AML fee-based grants (e.g., interagency review and coordination, consultations, documentation of compliance with the National Environmental Policy Act, and public meetings).
- Project design (e.g., preparing engineering designs, engineering estimates, and feasibility review of potential reclamation methods).
- State/Tribal oversight costs (e.g., administrative oversight, site inspections, site visits, and inventorying AML problems).

h) \$235 million is the estimated amount of undelivered orders.<sup>viii</sup> The undelivered order amount is the amount of AML fee-based monies that OSMRE awarded to states and Tribes that they have not yet drawn down on as reported in DOI's financial system as of September 30, 2022.

Of the \$9.799 billion that was *appropriated*, the remaining \$3.512 billion (or 36% of the appropriated amount) was allocated as follows:

- a) Approximately \$1.596 billion transferred to certain health care plans administered by the United Mine Workers of America (UMWA) Health and Retirement Funds since 1996.
- b) Approximately \$1.916 billion used for SMCRA authorized expenditures since FY 1978 which also included the following:
  - i) OSMRE operating expenses.
  - ii) Oversight of the Federal reclamation projects and construction costs for emergency and high priority projects in states and Tribes without an AML reclamation program and/or emergency program.
  - iii) Funding to state and Tribe AML Programs to address AML emergencies, until September 30, 2010.
  - iv) Funding to states and Tribes for the Small Operator Assistance Program, and to the Department of Agriculture for the Rural Abandoned Mine Program.<sup>ix</sup>

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**Footnotes on the Status of the Abandoned Mine Land Reclamation Fund (AML Fund)- September 30, 2022:**

- <sup>i</sup> Priority 1 coal problems are physical hazards that pose extreme danger to public health and safety and may include environmental problems if they are located adjacent to this priority. Priority 2 coal problems are physical hazards that pose adverse effects to public health and safety; and may include environmental problems if they are located adjacent to this priority. Priority 3 coal problems are hazards that adversely affect land or water resources or that have other effects on the environment.
- <sup>ii</sup> The \$3.646 billion figure is calculated based on the total completed and total funded amount in progress for the construction cost of P1, P2, and P3 coal AML priorities in e-AMLIS for the states and Tribes with approved AML programs that expended AML fee-based funds as of September 30, 2022.
- <sup>iii</sup> SMCRA allows states and Tribes that have not yet certified to utilize AML fee-based funds on a limited basis to address emergency non-coal problems that pose imminent threat to human health and the environment.
- <sup>iv</sup> Prior to the 2006 Amendments to SMCRA, the completion data for AML problems included Priority 4 and Priority 5 problems, certain non-mining related activities, and water supply restoration projects not linked to higher AML priorities. Priority 4 is designated for the protection, repair, replacement, construction, or enhancement of public facilities such as utilities, roads, recreation, and conservation facilities adversely affected by coal mining practices. Priority 5 is designated for the development of publicly owned land adversely affected by coal mining practices including land acquired as provided in Title IV for recreation and historic purposes, conservation, and reclamation purposes and open space benefits. Expenditures on non-mining related activities, such as transportation, education, or energy development were also recorded as completed costs in e-AMLIS. Water supply restoration for the purpose of protecting, replacing, constructing, or enhancing facilities relating to water supply, including water distribution facilities and treatment plants, to replace water supplies adversely affected by coal mining practices. This was previously authorized by SMCRA where there is no formal health, safety, or environmental priority associated with the work.
- <sup>v</sup> Prior to the 2006 Amendments to SMCRA, certified states and Tribes entered accomplishments for activities or construction of specific public facilities related to the coal or minerals industry in an area impacted by coal or minerals development. The monies used to conduct this work came from the AML fee-based funds.
- <sup>vi</sup> After the 2006 SMCRA Amendments, certified states and Tribes received US. Treasury Funds as Certified in Lieu Funds as they were no longer eligible to receive AML fee-based funds. In addition, after the 2006 SMCRA Amendments both uncertified and certified AML states and Tribes received U.S. Treasury Funds as Prior Balance Replacement Funds from 2008 to 2014.
- <sup>vii</sup> Figure reflects expenditures/allocations that were sourced only from the AML Fund and not the U.S. Treasury.
- <sup>viii</sup> The Undelivered Order Balance for the AML Fund represents the delta between the total amount of AML grant funds that have been awarded to states/Tribes and the expenses which were incurred and withdrawn from DOI/OSMRE's FBMS financial system.

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<sup>ix</sup> RAMP was designed to reclaim abandoned mine lands in agricultural regions and AML Priority 3 sites in rural areas. RAMP was administered by the U.S. Department of Agriculture (USDA), Natural Resources Conservation Service. Under RAMP, monies from the AML Fund were provided to the USDA to administer the program, but Congress ceased funding for this program in 1995.

## Data Sources for the Abandoned Mine Land (AML) Program



### **DOI/OSMRE's Financial Business Management System (FBMS)**

*System of Record for the  
AML Program*

#### Allocation/Expenses:

- Administrative costs (indirect costs, project design, engineering, operation, etc.)
- Coal Projects
- Non-Coal Projects
- Non-Reclamation Projects
- Emergency Projects
- Set-Aside Amounts Distributed



### **OSMRE's enhanced Abandoned Mine Land Inventory System (e-AMLIS)**

*Provides a subset of the record  
of the AML Program*

#### Tracks AML Priorities for Coal Projects:

- Direct construction costs for coal projects
- Direct construction cost for non-coal project completion (limited basis)