



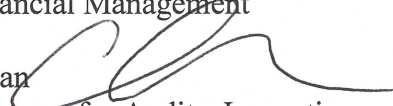
**OFFICE OF
INSPECTOR GENERAL**
U.S. DEPARTMENT OF THE INTERIOR

August 7, 2013

Memorandum

To: Rhea Suh
Assistant Secretary for Policy, Management, and Budget

Eric Eisenstein
Division Chief, Internal Control and Audit Follow-up,
Office of Financial Management

From: Charles Haman 
Regional Manager for Audits, Inspections, and Evaluations

Subject: Verification Review of Recommendations from the May 4, 2009 Audit Report,
"Bureau of Land Management – Mining Claimant Administration" (Report No.
C-IN-BLM-0011-2008)
Report No. C-VS-BLM-0003-2013

We have completed a verification review of the three recommendations presented in the subject audit report: "Bureau of Land Management – Mining Claimant Administration." The objective of the verification was to determine whether the Bureau of Land Management (BLM) implemented the recommendations as reported to the Office of Financial Management (PFM); Office of Policy, Management and Budget. PFM reported to us when each of the three recommendations in the report had been addressed. Based on our verification, we concluded that all three recommendations are resolved and implemented.

Background

In our report, we made three recommendations designed to determine how BLM might be more effective in working with claim holders (claimants) to mitigate the most serious physical safety hazards that existed before current claims were filed. Specifically, we found that BLM has often been unable to effectively identify, notify, or request cooperation from claimants to mitigate these hazards.

The Acting Assistant Secretary for Land and Minerals Management concurred with the report's recommendations in a memorandum dated April 20, 2009. As a result, we referred all three of the report's recommendations to the Assistant Secretary for Policy, Management and Budget for implementation tracking on July 16, 2009.

PFM notified us that BLM had completed the actions required to close all three recommendations in memoranda dated July 28, 2010, and December 9, 2010.

Scope and Methodology

The scope of this review was limited to documenting BLM's implementation of our recommendations. To accomplish our objective, we reviewed the supporting documentation that BLM officials provided to PFM and us. We discussed BLM's actions taken on each of the three recommendations and independently verified their implementation.

We did not perform any site visits or conduct fieldwork to determine if the underlying deficiencies we initially identified were corrected. As a result, this review is not conducted in accordance with Generally Accepted Government Auditing Standards issued by the Comptroller General of the United States or the Quality Standards for Inspection and Evaluation put forth by the Council of the Inspectors General on Integrity and Efficiency.

Results of Review

We concluded that BLM had resolved and implemented Recommendations 1, 2, and 3.

Recommendation 1: Inform field staff of the scope of BLM's authority to ensure that abandoned mine hazards on mining claims are mitigated.

We consider Recommendation 1 resolved and implemented.

Action Taken: In December 2009, BLM issued Instruction Memorandum (IM) 2010-045 entitled "Guidance for the Mitigation of Abandoned Mine Hazards on Active Mining Claims." The purpose of this IM is to inform field office personnel of BLM's responsibility and authority mitigating abandoned mine hazards on active mining claims and establish the proper procedure to determine claimant responsibility. The IM also provides guidance on using cooperative agreements with State agencies relating to coordinating and mitigating abandoned mine hazards. The IM informs BLM field staff of the scope of BLM's authority for mitigating mine hazards on mining claims as follows:

- Pursuant to Section 302(b) of the Federal Land Policy and Management Act, BLM is required to take any action necessary to prevent unnecessary or undue degradation of public lands. BLM will continue efforts to mitigate abandoned mine hazards on active mining claims; either on its own or with partnering organizations.
- When BLM field personnel have determined that a mine poses an imminent threat to public health and the environment, field personnel will make a reasonable effort to inform known mining claimants of any planned mitigation before the mitigation effort begins.
- If the mining claimant protests or takes action to prevent BLM's proposed mitigation actions, the mining claimant will become responsible for maintaining that mine opening in a safe and secure condition. BLM will initiate efforts for the mining claimant to accept financial responsibility for site maintenance, including protection of public health and the environment. The mining claimant will be required to submit an approved financial guarantee in accordance with 43 C.F.R. §§3809.500-3809.599 to cover public health and

environment, and BLM must undertake the necessary mitigation actions in accordance with the guidelines set forth in the “Abandoned Mine Lands Program Policy Handbook” (BLM Handbook H-3720-1). BLM will regulate these sites as “activities exceeding casual use,” and the mining claimants will be required to comply with surface management regulations at 43 C.F.R. § 3809.10.

- These mitigation actions must be taken to protect public health and the environment from immediate threat during the resolution of any protests from the mining claimant. Depending upon the resolution of the protests, either the mining claimant or BLM will complete mitigation for the mining hazard.

Recommendation 2: Complete—in cooperation with the Office of the Solicitor—and implement the proposed IM addressing abandoned mine hazards. At a minimum, the IM should address the principles identified in Attachment 3 for working with claimants to address abandoned mine hazards on their claims.

We consider Recommendation 2 to be resolved and implemented.

Action Taken: The referenced principles cited in support of this recommendation from the issued OIG report are as follows:

- Mining Claim Identification. How offices are to identify the location of mining claims and respective claimants.
- Notification of Claimants and Solicitation of Cooperation. How offices should notify claimants and work with them to ensure mitigation of hazards.
- Hazard Mitigation. How BLM field offices should proceed if claimants do not exist, cannot be found, or do not mitigate hazards after being notified. For the most serious physical hazards, BLM should, at a minimum, erect fences and signs to protect the public. BLM should work with the States that have laws requiring claimants to protect the public to report hazards so that States can take action.

In September 2010, BLM issued IM 2010-211 entitled “Procedures for Identifying and Notifying Claimants on Active Mining Claims when Mitigating Abandoned Mine Hazards on Active Mining Claims.” The IM provides guidance to BLM’s field offices in the proper procedures for identifying and notifying mining claimants when mitigating abandoned mine land (AML) features on active mining claims. In addition, field offices are notified of a public outreach effort to claimants whose mining claims may contain AML features within their boundaries. The IM’s guidance to BLM field offices for each of the three principles is as follows:

Principle 1: Mining Claim Identification.

Prior to conducting mitigation activities at a site, BLM personnel must determine whether there are any mining claims at the site and whether any such claims are “active” by conducting a mining claim record search using BLM’s Legacy Rehost System 2000 (LR2000) database. Field offices must run two reports to obtain (1) the existence of an active mining claim, and (2) the address of record, which describes the location of the mining claims by township, section, and

range. To determine if the AML is within the boundaries of the mining claim, a location map should be requested from the State office. Assistance from the field office geologist or cadastral surveyor may be required.

Principle 2: Notification of Claimants and Solicitation of Cooperation.

BLM's Solid Minerals Division, Minerals and Realty Directorate, will disseminate a "General Notice" to mining claimants of record whose mining claims were identified as containing abandoned mine hazards. The notice informs claimants of BLM's policy (IM-2010-045) that if a claimant maintains an abandoned mine hazard solely for the purpose of preserving access for future mining or exploration activities, then the claimant's use of the site exceeds casual use and such use requires compliance with 43 C.F.R. § 3809.10, including the submittal of a financial guarantee. The notice also reminds claimants of BLM's commitment to mitigate mine hazards on public lands through the "Fix a Shaft Today!" program, also known as FAST.

Dissemination of the notice will encourage claimants to contact local field offices if their activities include access to, or use of, an abandoned mine feature that has not already been authorized by BLM.

Principle 3: Hazard Mitigation.

This principle is covered under IM 2010-045, issued December 16, 2009, for BLM's actions to address Recommendations 1 and 3 of the OIG report.

Recommendation 3: Maximize the use of cooperative agreements with States to mitigate abandoned mine hazards on mining claims, particularly with those that have mine site mitigation enforcement laws, as do Nevada and Arizona.

We consider Recommendation 3 resolved and implemented.

Action Taken: In December 2009, BLM issued Instruction Memorandum (IM) 2010-045 entitled "Guidance for the Mitigation of Abandoned Mine Hazards on Active Mining Claims." The purpose of this IM is to inform field office personnel of BLM's responsibility and authority mitigating abandoned mine hazards on active mining claims and establish the proper procedure to determine claimant responsibility. The IM also provides guidance on the use of cooperative agreements with State agencies as it relates to the coordination and mitigation of abandoned mine land hazards. The IM encourages AML and Surface Management's lead staff members to do the following:

- Use existing cooperative agreements with State agencies, when practical, to coordinate mitigation of abandoned mine land hazards. These cooperative agreements have been used successfully to streamline mitigation and reduce associated costs. States without cooperative agreements are encouraged to meet with their respective State agencies to study the feasibility of such an agreement, and if practical and feasible, to implement them in a timely manner.

- Review the current state of its cooperative agreement and provide a report to the Division of Environmental Quality. For State offices that do not have a cooperative agreement, the report must describe what actions have been made to initiate an agreement and include an action plan to initiate such an agreement. This report is due by April 30, 2010.

Although a report was not available as required by the IM, BLM State offices provided information regarding the current status of agreements between BLM's AML program and other State agencies for mitigating AML hazards. We concluded that 10 of the 11 responding BLM State offices have either established an agreement with State agencies or have implemented alternative actions to comply with the IM. Only one State office does not have an agreement with its State agency counterparts.

Conclusion

We informed BLM officials of the results of this review on June 12, 2013. BLM officials agreed with the results of our review.

cc: Neil Kornze, Bureau of Land Management, Principal Deputy Director
LaVanna Stevenson, Bureau of Land Management, Audit Liaison Officer
Nancy Thomas, Audit Liaison Officer, Office of Financial Management