

INDIANA DEPARTMENT OF NATURAL RESOURCES

DIVISION OF RECLAMATION

ABANDONED MINE LANDS PROGRAM

STATE RECLAMATION PLAN

REVISED June, 2016

Address comments to:

Marvin Ellis
Division of Reclamation
14619 West State Road 48
Jasonville, IN 47438



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**OFFICE OF THE GOVERNOR
INDIANAPOLIS, INDIANA 46204**

**ROBERT D. ORR
GOVERNOR**

September 23, 1981

Mr. Edgar A. Imhoff, Regional Director
Office of Surface Mining
Federal Building
46 East Ohio Street
Indianapolis, Indiana 46204

Dear Mr. Imhoff:

On behalf of the State of Indiana, I am designating the Indiana Department of Natural Resources as the agency responsible for administering all programs under Title IV and Title V of the Federal Surface Mining Control and Reclamation Act of 1977, (P.L. 95-87). These programs include, but are not limited to, the administration and enforcement of the regulatory program, abandoned mine lands reclamation program, and the small operators assistance program.

Mr. James M. Ridenour, Director of the Indiana Department of Natural Resources, is hereby appointed as liaison to act under my authority. The Division of Reclamation of the Indiana Department of Natural Resources shall be the agency charged with the responsibility of the daily administration of these federal programs.

Sincerely,



ROBERT D. ORR
Governor

RDO:ba

cc: James M. Ridenour



LINLEY E. PEARSON
ATTORNEY GENERAL

STATE OF INDIANA

ATTORNEY GENERAL
INDIANAPOLIS, INDIANA
46204



November 20, 1981

Mr. James M. Ridenour, Director
Department of Natural Resources
608 State Office Building
Indianapolis, Indiana 46204

OFFICIAL OPINION NO. 81-29

Dear Mr. Ridenour:

This is in response to your request for an opinion concerning the ability of the Department of Natural Resources to participate in the Abandoned Mine Lands Reclamation program in accord with 30 CFR 884.13(b). That program was established under Title IV of the federal Surface Mining Control and Reclamation Act of 1977. (P.L. 95-87).

ANALYSIS

In order for the State to be entitled to participate and receive grants from the abandoned mine reclamation fund established by the Surface Mining Control and Reclamation Act of 1977 certain requirements have been placed upon the State. These include: (1) the submission of a State Reclamation Plan; (2) the ability to enter onto privately owned property to reclaim land adversely affected by past coal mining practices; (3) the ability to acquire and reclaim land adversely affected by past coal mining practices; (4) the ability to enter onto any property for the purpose of conducting studies or exploratory work to determine the feasibility of restoration, reclamation, abatement, control or prevention of adverse effects of past coal mining practices; and (5) the ability to obtain liens upon privately owned property which has been reclaimed with a resulting increase in the market value of the property.

The regulations embodied in 30 CFR 870-888 set up the specific manner by which the intent of Title IV of P.L. 95-87 is to be carried out. In § 872.4(c), the State is given certain responsibilities.

- (c) The States are responsible for
 - (1) Preparing and submitting a State Recla-

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mation Plan to the Director if the state elects to participate in the Abandoned Mine Land Reclamation Program;

(2) Establishing a State Abandoned Mine Reclamation Fund for use in conducting the State Reclamation Program;

(3) Submitting annual applications for grants, including descriptions of proposed projects;

(4) Submitting requests to the Regional Director for work to be done on noncoal mined lands;

(5) Submitting requests to the Regional Director for construction of specific facilities in communities impacted by coal development;

(6) Conducting reclamation work in accordance with grant agreements;

(7) Consulting with State and Federal agencies as necessary and developing cooperative agreements with the appropriate surface management agency when State or Federal lands are considered for inclusion in a State Reclamation Program; and

(8) Submitting reports annually to the Regional Director describing progress on previously funded projects.

The proposed State Reclamation Plan sets out general descriptions of how the Department of Natural Resources intends to proceed under the Abandoned Mine Lands Reclamation. These descriptions parallel the required contents of a proposed State Reclamation Plan, as set out in 30 CFR 884.13.

The question posed requires a review of State law to ensure the authority of the Department of Natural Resources to fulfill the requirements delineated above.

Indiana Code Section 5-19-1-1 concerns cooperation with the federal government. It states:

The state, or any political subdivision thereof, are each hereby authorized and empowered to the full extent authorized by the Constitution of Indiana and not prohibited by law, to accept the provisions of any law of the Congress of the United States of America, or any rule, regulation, order or finding made pursuant thereto, now or

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hereafter in force, which, upon acceptance, authorizes the state, or any political subdivision thereof, to cooperate with the federal government, or to receive benefits for itself or any of its citizens; and the state, or any political subdivision thereof, is hereby authorized and empowered to do any and all acts, and to make any rule, regulation, order, or finding, that may be necessary to cooperate with the federal government or to effectuate the purposes of any such federal law.

By reading this section, it can be seen that the Department of Natural Resources has been authorized to cooperate with the federal government "to the full extent authorized by the Constitution of Indiana and not prohibited by law." Therefore, the question becomes whether the actions required of the State are prohibited by law. The recently enacted Indiana Code Chapter 13-4.1-15 not only does not prohibit, but allows such action by the State.

Indiana Code Section 13-4.1-15-4 states that:

If the director makes a finding of fact that:

- (1) land or water resources have been adversely affected by past coal mining practices;
- (2) those adverse effects are at a stage where, in the public interest, action to restore, reclaim, abate, control, or prevent should be taken; and
- (3) the owners of the land or water resources where entry must be made to restore, reclaim, abate, control, or prevent the adverse effects of past coal mining practices are not known, or readily available or the owners will not give permission for the United States, the states, political subdivisions, their agents, employees, or contractors to enter upon that property to restore, reclaim, abate, control, or prevent the adverse effects of past coal mining practices; then upon giving notice by mail to the owners if known or if not known by posting notice upon the premises and advertising once in a

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newspaper of general circulation in the county in which the land lies, the director may enter upon the property adversely affected by past coal mining practices and any other property to have access to that property and do all things necessary or expedient to restore, reclaim, abate, control, or prevent those adverse effects. The entry is an exercise of the police power for the protection of public health, safety, and general welfare and is not an act of condemnation of property nor of trespass thereon. The moneys expended for that work and the benefits accruing to the premises so entered upon are chargeable against the land and mitigate or offset any claim in or any action brought by any owner of any interest in the premises for any alleged damages by virtue of that entry. However, this provision does not create new rights of action or eliminate existing immunities.

Indiana Code Section 13-4.1-15-5 states that:

The director may enter upon any property for the purpose of conducting studies or exploratory work to determine the existence of adverse effects of past coal mining practices and to determine the feasibility of restoration, reclamation, abatement, control, or prevention of those adverse effects. That entry is an exercise of the police power for the protection of public health, safety, and general welfare and not an act of condemnation of property nor trespass thereon.

Indiana Code Section 13-4.1-15-6 states that:

The director may acquire any land, by purchase, donation, or condemnation, which is adversely affected by past coal mining practices if the director determines that acquisition of that land is necessary to successful reclamation and that:

(1) the acquired land, after restoration, reclamation, abatement, control, or prevention of the adverse effects of past coal mining practices,

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will serve recreation, historic, conservation, and reclamation purposes or provide open space benefits and permanent facilities such as a treatment plant or a relocated stream channel will be constructed on the land for the restoration, reclamation, abatement, control, or prevention of the adverse effects of past coal mining practices; or (2) acquisition of coal refuse disposal sites and all coal refuse thereon will serve the purpose of this chapter or that public ownership is desirable to meet emergency situations and prevent recurrences of the adverse effects of past coal mining practices.

Indiana Code Section 13-4.1-15-12 states that:

(a) Within six (6) months after the completion of projects to restore, reclaim, abate, control, or prevent adverse effects of past coal mining practices on privately owned land, the director shall itemize the moneys expended and may file a statement thereof with the county recorder in the county in which the land lies together with a notarized appraisal by an independent appraiser of the value of the land before the restoration, reclamation, abatement, control, or prevention of adverse effects of past coal mining practices if the moneys so expended shall result in a significant increase in property value. That statement shall constitute a lien upon the land. The lien may not exceed the amount determined by the appraisal to be the increase in the market value of the land as a result of the restoration, reclamation, abatement, control, or prevention of the adverse effects of past coal mining practices. No lien shall be filed against the property of any person, in accordance with this subsection, who owned the surface prior to May 2, 1977, and who neither consented to, participated in, nor exercised control over the mining operation which necessitated the reclamation performed under this chapter.

(b) The landowner may petition within sixty (60) days of the filing of the lien, to determine the increase in the market value of the land as a

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result of the restoration, reclamation, abatement, control, or prevention of the adverse effects of past coal mining practices. The amount reported to be the increase in value of the premises shall constitute the amount of the lien and shall be recorded with the statement filed under subsection (2). Any party aggrieved by the decision may appeal as provided by law.

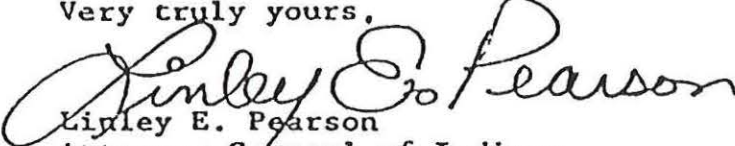
(c) The director shall record the lien with the county recorder in the county in which the land is located. The statement shall constitute a lien upon the land as of the date of the expenditure of the moneys and shall have priority as a lien second only to the lien of real estate taxes imposed upon said land.


Chapter 13-4.1-15 of the Indiana Code clearly authorizes the Department of Natural Resources to participate in the program in accordance with the requirements of Title IV of the federal Surface Mining Control and Reclamation Act of 1977 (P.L. 95-87), 30 CFR 870-888, and the State Reclamation Plan.

CONCLUSION

It is, therefore, my Official Opinion that the Department of Natural Resources has the authority under present State law to conduct the Abandoned Mine Lands Reclamation program in accordance with the requirements of Title IV of the federal Surface Mining Control and Reclamation Act of 1977 (P.L. 95-87), 30 CFR 870-888, and the proposed State Reclamation Plan.

Very truly yours,


Linley E. Pearson
Attorney General of Indiana


Mathew S. Scherschel
Deputy Attorney General

LEP:MSS:bjm

INDIANA RECLAMATION PLAN

30 CFR Part 884.13

GOALS AND OBJECTIVES

884.13(a)(3)(i)

It is the goal of the Indiana Abandoned Mine Land (AML) Program to amend those adverse effects of past coal mining conducted prior to August 3, 1977 which: (1) impact public health, safety or general welfare and (2) foster environmental degradation consistent with Sections 401 through 411 of Public Law 95-87, the Surface Mining Control and Reclamation Act of 1977 (SMCRA) including all approved amendments. In addition to reclamation of sites mined for coal and abandoned with inadequate reclamation on or before August 3, 1977, any site affected by a coal mining operation which occurred during the period of August 4, 1977 until July 29, 1982 (the interim period) where funds for reclamation or abatement which are available pursuant to a bond or other form of financial guarantee or from any other source is not sufficient to provide for adequate reclamation or abatement of the site, will be addressed under the Indiana AML Program. Also, any site where coal mining operations occurred during the period beginning on August 4, 1977 and ending on or before November 5, 1990, and that the surety of such mining operator became insolvent during such period, and as of November 5, 1990 funds immediately available from proceedings relating to such insolvency, or from any other financial guarantee or other source are not sufficient to provide for adequate reclamation or abatement at the site (insolvent surety sites), will also be addressed under the Indiana AML Program. The program will continue until all funds have been dispersed from the federal Abandoned Mine Land fund. During that period, the AML Program will be administered by the Indiana Department of Natural Resources (DNR), Division of Reclamation (DOR).

The objectives of the Indiana AML Program are to identify and prioritize the adverse effects of past coal mining with the concurrence of OSMRE, provide planning procedures and affect their ultimate reclamation.

Non-coal Reclamation

The AML Reclamation Program is primarily concerned with the reclamation of coal mine lands. It is recognized that there are non-coal problems in Indiana and they may be dealt with in accordance with OSMRE's "Non-coal Abandoned Mine Land Reclamation Policy".

Future Set-Aside Reclamation Fund

The Indiana AML Program elected to set aside up to ten percent of each year's allocation of available AML funds awarded before December 20, 2006 into a separate fund for the restoration of eligible lands and waters. These funds have been deposited into a special State account and will be used and accounted for in accordance with all applicable State and federal regulations and used solely to achieve the priorities stated in Section 403(a) of SMCRA.

Acid Mine Drainage (AMD) Set-Aside Reclamation Fund

The Indiana AML Program has elected to set aside up to thirty percent of each year's allocation of available AML funds distributed annually from allowable portions of our annual allocation including, but not limited to the State share (SMCRA Section 402(g)(1)) and Historic Coal share (SMCRA Section 402(g)(5)) funds into a separate fund for the abatement of the causes and treatment of the effects of AMD in a comprehensive manner within qualified hydrologic units affected by coal mining practices. These funds have been deposited into a special State account and will be used and accounted for in accordance with all applicable State and federal regulations and used solely to achieve the priorities stated in Section 402(g)(6) of SMCRA.

RECLAMATION PROJECT RANKING AND SELECTION PROCEDURES

884.13(a)(3)(ii)

The State of Indiana will utilize a priority system for all sites eligible under Title IV of the Surface Mining Control and Reclamation Act of 1977 (P.L. 95-87) as amended. This system recognizes three abandoned mine land problem priorities. Priority one sites are those that exhibit extreme danger of adverse effects of coal mining practices. Priority two sites are those which adversely impact public health and safety. Priority three sites are those which cause environmental degradation. Pursuant to Sections 402 and 403 of SMCRA, the following subcategories of priorities will be considered within this framework.

Priority I:

AML problems which exhibit extreme danger of adverse effects of coal mining practices to public health, safety or property. Potential sites may include, but are not limited to:

- open and unprotected mine entries
- water filled shafts
- highwalls
- hazardous mine structures
- underground mine subsidence
- steep embankments other than highwalls
- any other mine related extreme danger

Priority II:

AML problems which adversely impact public health and safety. Potential sites may include, but are not limited to:

- open and unprotected mine shafts
- water filled shafts
- highwalls directly adjacent to roads or other public use areas
- hazardous mine structures

- underground mine subsidence
- partially filled shafts
- highwalls subject to traffic
- any other mine related danger
- trash dumps on mined lands
- any water body adversely affected by mine drainage derived from coal mine sources which has reduced recreation or aesthetic value and for which there is local support for reclamation

Priority III:

AML problems resulting in the environmental degradation of soil, water, air quality, woodlands, fish and wildlife resources, recreational resources; and agricultural productivity. These may include, but are not limited to:

- coal refuse areas (gob or slurry) creating on site and/or off site environmental problems
- spoil areas (surface mined land) creating on site and/or off site environmental problems
- impaired mine drainage
- underground mine subsidence
- any non-productive land as a result of past mining

Stand-alone priority III reclamation projects are restricted to: using prior balance replacement funds, projects undertaken after the completion of priority I and II sites, and/or projects completed in conjunction with priority I or II reclamation projects. For the latter, the priority III project must either facilitate the priority I or II reclamation project or provide reasonable savings toward reclaiming all priority III problems as stated in SMCRA Sections 402(g)(2), 402(g)(7), 403(a)(3), 411(h)(1)(D)(ii); 30 CFR 872.31(b) and 874.13(b).

Data Acquisition

Eligibility of each project pursuant to I.C. 14-34-19-2 is determined after reviewing information available in the AML Database and other pertinent sources, and a compliance check of State and federal laws by Department legal staff. The AML Database contains past mining records and is continually updated with information gathered by DOR staff, from other agencies and field investigations. Additional data were provided by a comprehensive aerial survey of AML sites, conducted in 1978 by the Laboratory for Application of Remote Sensing (LARS) under contract to DOR. These data have been cross-checked and a comprehensive State inventory of pre-1977 mined lands developed. Division of Reclamation permit records and the Title V bonding records of post-1977 mined lands have been used to assemble an inventory of eligible sites that are either interim period bond forfeiture or insolvent surety sites. The AML Program of the Division of Reclamation maintains an inventory of AML sites from which all funded sites are selected. Division of Reclamation staff conduct ongoing field investigations and encourage public input to determine the existence of additional lands and waters that may be included in the program. The

eligibility of all sites for AML funding is determined by the Department legal staff in conjunction with the AML Program pursuant to all applicable rules and regulations.

Ranking and Selection

The following ranking and selection procedures were developed and implemented for their thoroughness, lack of bias and applicability to specific AML problems in Indiana. These procedures have evolved over the years with the maturation of the AML Program.

Step 1

Collect the following data for each potentially eligible AML site:

- DNR inventory site number
- Abandoned Mine Land Inventory System number
- location by township, range, and section
- U.S.G.S. quadrangle map name where site occurs
- county of site occurrence
- mine name and dates of operation, if known
- nature of problem
- interview with local citizen(s)
- permit number(s), if applicable

Step 2

Determine the priority of each site consistent with the guidelines described in the previous sections. Any site designated as Priority I will rank higher than any Priority II. All Priority II sites will rank higher than any Priority III sites.

Step 3

Groups of potential reclamation sites are visited by the Project Development Group (currently consisting of the Chief Engineer, Project Management Supervisor and Technical Management Supervisor) to evaluate the sites and propose a conceptual reclamation plan.

Step 4

Potential reclamation sites are then placed into the existing design and construction timeline based upon priority and available grant funding.

Bond Forfeiture

Bond forfeiture sites are included in the project inventory. Eligibility of bond forfeiture sites to receive AML funding will be determined consistent with all federal laws and regulations including but not limited to the Surface Mining Control and Reclamation Act (P.L. 95-87), Sections 401 through 411. Forfeited bond monies are spent in conjunction with approved AML

funds for eligible expenses prior to commencing drawdown of federal funds to satisfy the applicable program requirements.

Resource Recovery

Priorities will be determined for all eligible AML sites, regardless of their potential for resource recovery. However, if DOR is apprised that such an activity is being considered, funding submission may be held in abeyance for a period to be determined by the State. If at the end of that period recovery operations have not begun and mitigating circumstances do not warrant further delay, the State may commence reclamation.

If cost effective and a wise use of the coal resource, DOR may choose to promote the processing of coal from an AML site in conjunction with reclamation. Resource recovery will be undertaken in accordance with the AML Enhancement Rule (30 CFR 707 and 874.17).

Remined Sites

Any site that is eligible for AML fund expenditures that is remined or reaffected by mining, remains eligible for AML reclamation after bond release or forfeiture as stated in 30 CFR 874.12 (h).

COORDINATION WITH OTHER PROGRAMS

884.13(a)(3)(iii)

Sycamore Trails Resource Conservation & Development Group

The Sycamore Trails Resource Conservation and Development Group (Sycamore Trails) is a non-profit organization that helps people care for, conserve and develop natural, human and economic resources in a way that will improve the environment, economy and standard of living in a given area. Sycamore Trails has numerous natural resource committees dealing with forestry, invasive plant species and abandoned mine lands. Sycamore Trails will be encouraged to maintain their own AML program in order to remediate adversely impacted mine lands; mostly stand-alone priority 3 in nature. In order to coordinate the two programs and exchange information, a close liaison will be maintained between the DOR and Sycamore Trails. Sycamore Trails will conduct reclamation projects based on sites listed in the Abandoned Mine Land Inventory System database, sites identified by Sycamore Trails' personnel or Indiana AML Program personnel. All potential sites will be brought forth to a committee consisting of Sycamore Trails and Indiana AML personnel for review. A final decision regarding the expenditure of AML funds on a given site will be issued upon review by the committee.

Indian Lands

There are no known Indian lands within the Indiana Coal Region.

Abandoned Mine Land Emergency Program

The purpose of the AML Emergency Program is to stabilize the emergency aspects of the problem by eliminating the immediate danger to public health, safety or general welfare. Any remaining reclamation will then be accomplished as part of a regular non-emergency AML project. The DOR shall have the right to enter upon any land where the emergency exists and any other land to have access to the land where the emergency exists to perform the required reclamation. Such entry shall be construed as an exercise of the police power and shall not be construed as an act of condemnation of property nor of trespass thereof. For the purposes of this plan, an "emergency" is defined as a sudden danger, impairment or discovery (as it relates to coal mining) that presents a high probability of substantial physical harm to the health, safety or general welfare of people before the danger can be abated under the traditional AML Program operation procedures. Entry under the AML Emergency Program is done in accordance with Section 410 of the Surface Mining Control and Reclamation Act (P.L. 95-87) as amended.

LAND ACQUISITION, MANAGEMENT AND DISPOSAL

884.13(a)(3)(iv)

If deemed necessary, the Department may acquire, manage and dispose of land under this program pursuant to Section 407 of the Surface Mining Control and Reclamation Act (P.L. 95-87), 30 U.S.C. 1237 and I.C. 14-34-19-6 through 11.

RECLAMATION OF PRIVATE LAND

884.13(a)(3)(v)

The Indiana Department of Natural Resources Director has the discretionary authority to place or waive a lien against private property if:

The surface owner(s) consented to, participated in or exercised control over the mining operation which necessitated reclamation and it has been determined by an independent appraisal that reclamation will result in a significant increase in property value.

In situations where the surface owner(s) consented to, participated in or exercised control over the mining operation which necessitated reclamation, a lien evaluation will be conducted to determine if a significant increase in value is likely to occur. This will be done by comparing the estimated value of the property before reclamation with the estimated value of the property after reclamation, based upon the project plans and specifications. If the evaluation reveals an increase in property value of \$25,000.00 or more per landowner per project, then an independent appraisal may be conducted. The Director will use the findings of the independent notarized appraisal as well as other relevant facts concerning ownership, benefit of project to community at large, reclamation performed, mining history, etc. when determining if a lien will be placed or waived against the property in question, all in accordance with I.C. 14-34-19-12, provided however, that prior to the time of the actual filing of the proposed lien, the landowner shall be notified of the amount of the proposed lien and shall be allowed a reasonable time to prepay that amount instead of allowing the lien to be filed against the property.

RIGHTS OF ENTRY

884.13(a)(3)(vi)

The DOR will take all reasonable actions to obtain written consent from the owner of record of the land or property to be entered for the purpose of reclamation in advance of such entry. In the event permission cannot be obtained on properties where reclamation is needed for the protection of public health, safety and general welfare, then entry is authorized as an exercise of the police power. When police power entry is necessary, the landowner, if known, will be given at least 30 days notice prior to entry. The notice shall be in writing and shall be mailed, return receipt requested, with a copy of the findings. If the landowner is not known, or if the current mailing address of the owner is not known, notice shall be posted on the property where it is readily visible and advertised once in a newspaper of general circulation in the locality where the land is located. The notice posted on the property and advertised in the newspaper shall tell where the findings can be inspected or obtained. All rights of entry and police powers will be obtained pursuant to I.C. 14-34-19-4 and 5.

PUBLIC PARTICIPATION POLICIES

884.13(a)(3)(vii)

State Reclamation Program

The Abandoned Mine Land Program in Indiana considers public participation to be a valuable and necessary part of its restoration operation. The public is encouraged to contact our office with any concerns or questions they may have in regard to mining related problems or the AML Program.

Citizens are welcome to visit the Division of Reclamation Office located on State Highway 48 approximately 1/2 mile west of Jasonville, Indiana. Inquiries may also be made by phone, in writing, or at: www.in.gov/dnr/reclamation. Our telephone numbers are: Toll Free within Indiana: 1-800-772-MINE (6463); or 812- 665-2207.

Written communication should be sent to:

Division of Reclamation
Restoration Section
14619 West State Road 48
Jasonville, Indiana 47438-9517

Informational letters are sent to federal, State, and local elected officials concerning future AML projects. These officials then have the opportunity to provide information to and solicit feedback from their constituents. Public notices are published in a general circulation newspaper within the county where the proposed site is located. A reasonable comment period is allowed for response prior to requesting authorization to proceed. If sufficient response is expressed by the

public, then a public meeting may be scheduled to address the concerns of the citizens. The affected landowners also have direct input into the design process of the reclamation plans.

Public participation and involvement in the preparation of any revisions or amendments to the AML State Reclamation Plan will be coordinated and executed by the federal Office of Surface Mining during the public comment and review period. This unified comment period should help to reduce unnecessary delays in program modifications as well as provide a consistent single source of public notification.

ORGANIZATION OF THE DESIGNATED AGENCY

884.13(a)(4)(i)

As outlined in the attached organizational charts, the Director of the Department of Natural Resources reports directly to the Governor. As a unit of the Department of Natural Resources, the Division of Reclamation is responsible to the Director of the DNR, via the Deputy Director to the Regulatory Management Team. The Director may use any of the divisions within DNR or other State agencies to assist DOR in administering the AML Program. AML Program management is conducted in accordance with procedures established by the State of Indiana, and the Department of Natural Resources. The AML Program operates directly under the AML Program Coordinator and is comprised of three areas of responsibility; Technical Services, Project Design and Project Management.

The Indiana AML Program coordinates its activities with other divisions within the DNR. These divisions review proposed reclamation projects, provide assistance and offer expertise to ensure that reclamation activities restore adversely impacted land and water to a productive state while protecting our natural resources.

PERSONNEL STAFFING POLICIES

884.13(a)(4)(ii)

The DNR will not discriminate against any employee or applicant for employment because of race, religion, color, sex, age, condition of handicap, or national origin. Such action shall include, but is not limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training.

DOR staff is selected on the basis of academic and/or professional experience in an applicable field. The attached organizational charts illustrate the variety of technical credentials and expertise available within DOR and the AML Program. Additional staffing will be considered as it becomes essential to the successful administration of the AML Program.

PURCHASING AND PROCUREMENT

884.13(a)(4)(iii)

State laws strictly regulate government purchases. These laws are compatible with requirements of the revised OMB Circular A-102 and the Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments found at 43 CFR 12, Subpart C.

This process is the same for all purchasing agencies in State government and provides an adequate procedure in accord with applicable regulations. Program staff responsible for purchasing, procurement and contracting is familiar with all applicable State and federal guidelines. Any statutory or internal procedural changes are communicated immediately and training provided as necessary. Transactions exceeding internal levels of authority are overseen by agents of the Department of Administration, including review by the State Attorney General. Further review, including periodic audits, is conducted by the State Board of Accounts and the State Auditor.

INDIANA AML APPLICANT/VIOLATOR SYSTEM (AVS) PROGRAM

All successful bidders on AML federally funded projects must comply with 30 CFR 874.16 and 30 CFR 875.20. These sections of the Code of Federal Regulations require that no company owners, director or major share holders have any federal coal mining violations or state cessation orders that would make the company ineligible to be awarded a contract. In order to meet requirements as set out in the Federal Regulations to validate AML Program contractors through the AVS system, Indiana has developed a procedure that can function within the State contracting process.

a) Who Must Meet Requirements

All successful low bidders being awarded federally funded AML contracts. Regulations specify “successful bidder” as the entity to be covered. Thus, in situations where there is not a competitive bid procedure, such as those involving another governmental unit or an award that is not required to be bid e.g., Architectural and Engineering type contracts, an AVS check is not necessary.

b) Clearance Procedures

The apparent low bidder will be checked through the AVS system via the Division of Reclamation AVS Coordinator following bid opening and prior to issuing the Bid Report. The Bid Report is the acceptance of the low legal bid and intent for the issuance of a contract. If a contractor has an un-resolvable AVS problem, a decision will be made whether to re-bid the project or go to the next low bidder. In order to prevent excessive delays, a contractor will normally be allowed only seven (7) days to clear an AVS “Deny”.

c) Emergency Program

Emergency program contractors will also be required to meet the above AVS clearance requirements, but with the following exception. If the Emergency Response Coordinator determines there is an overriding need to proceed prior to being able to make an AVS check, this is acceptable. A check after-the-fact will be performed; the results could be a basis for future contract denials.

ACCOUNTING

884.13(a)(4)(iv)

The DNR utilizes the State's computerized bookkeeping system which is integrated with the State Auditor's system. Federal draws are recorded and deposited by the Division of Accounting to the appropriate account in the Treasurer's office to reimburse the State for reported and verifiable expenditures. The Division of Accounting is responsible for proper accounting of income and expenses and maintains all records for auditing purposes. The State Board of Accounts audit both reimbursement and expenditure records annually. Each transaction is identified by an accounting computerized code to ensure accuracy. The AML Financial Officer and Administrative Service Section personnel reconcile the federal draw with the State's records.

Administrative costs for operation of the AML Program are handled through the DOR's budget and operating fund administered by the Administrative Services Section. All operational costs such as personnel salaries, travel, supplies and equipment expenses must be part of the Division budget. Administrative and construction project verification records are kept on file at the Division of Accounting. AML construction and design projects are fully funded through approved grants, in accordance with 30 CFR 886. The AML staff maintains detailed financial and informational records in-house for each site and project to aid in implementation of the program. Funds from federal draws reimburse the State for the administrative, operational and construction costs for all restoration projects.

A computerized accounting system is used by many federal programs and is an acceptable method of developing an audit trail as defined in the revised OMB Circular A-102 and the Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments found at 43 CFR 12, Subpart C. Original documents are maintained, but summarized into predefined budgetary categories that leave an easily identified audit record.

ELIGIBLE LANDS AND WATERS

884.13(a)(5)(i)(ii)

Lands and waters that are deemed eligible for reclamation are described in Section 404 of SMCRA and in IC 14-34-19-2. Eligible sites must reflect one or more of the priorities described in SMCRA 403(a) and IC 14-34-19-3 and may contain a gamut of problem types including, but

not limited to, dangerous highwalls, impaired water, trash, abandoned mining structures or equipment, abandoned shafts or other mine entries, lack of drainage control, barren spoil, lack of any or an acceptable vegetative cover, etc. The State of Indiana may also expend funds to protect, repair, replace, construct, or enhance “facilities relating to water supply, including water distribution facilities and treatment plants, to replace water supplies adversely affected by coal mining practices” SMCRA (403(b)(1)).

Three previously submitted documents, listed below and incorporated by reference as part of this State Plan, offer general descriptions of the pre-1977 known or suspected eligible lands and waters within the State of Indiana which required reclamation at the time of the documents’ publication. Many of the sites described in these documents have since been reclaimed and several of the mining related problems that were once prevalent at these sites have been reduced. However, problems such as impaired mine drainage, vegetation die-off and coal refuse exposure continue to present challenges at several of these sites and many problem areas have yet to receive any or adequate reclamation. In addition, increasing development of previously mined land leads to problems such as the encroachment of new housing in subsidence prone areas as well as emerging problems such as elevated Carbon Dioxide (CO₂) levels in homes built upon mine spoil. Current land use trends indicate that such problems will continue to pose challenges into the future.

The following documents have been previously submitted:

1. Status of Derelict Land Associated with Coal Mining in Southwestern Indiana.
2. Derelict Lands of Indiana.
3. An Interim Report of Field Investigations of Derelict Coal Mined Lands in Southwestern Indiana.

The following updated document has been submitted with this State Plan:

1. Locations of Documented Surface and Underground Coal Mines in Southwestern Indiana.

Other sources of information concerning known or suspected eligible land and water within the State of Indiana are:

1. The National Abandoned Mine Lands Inventory System (e-AMLIS).
2. Indiana’s Coal Mine Information System (CMIS).

All of the above data sources are available at the DNR, Division of Reclamation, Jasonville, Indiana. The National Abandoned Mine Lands Inventory System is described at: <http://www.osmre.gov/programs/amlis.shtm>. The Indiana Coal Mine Information System can be found at <http://dnrmmaps.dnr.in.gov/apps/cmisis.htm>, with data and supporting maps available at the Indiana Geological Survey, Bloomington, Indiana. Additional information may be found at www.in.gov/dnr/reclamation.

ENVIRONMENTAL PROBLEMS AND RECLAMATION TECHNIQUES

884.13(a)(5)(iii)

A general description of the environmental problems occurring on eligible land and water is discussed in the DNR publication “Derelict Lands of Indiana” (1978). This report lists the types of derelict coal mined land in Indiana and various environmental problems that are caused by these lands along with a discussion of suggested reclamation techniques. Estimated reclamation costs are also presented for various types of derelict mined land problems. The approach taken by the State will be to return the site to an environmentally stable condition compatible with the existing land use in the surrounding areas and the special conditions on the site.

The cost of future private development beyond that necessary for environmental stability shall be borne by the property owner or developer and should not adversely affect the completed reclamation. However, potential development considerations may be included in the project design if they present no significant additional cost to the program. This would especially apply to cases where the land is to be dedicated to public use.

THE ECONOMIC BASE

884.13(a)(6)(i)

The 2010 US census listed Pike County Indiana as the median population center of the United States. According to the [Southwest Indiana Development Council](#), southwest Indiana is within a day’s drive of 75 percent of the U.S. and Canadian populations and is accessible to every U.S. market by road, rail, air and water. This centralized location is ideal for southwest Indiana to purchase or supply goods and products to anywhere within the central or eastern United States.

A significant portion of the region’s economy is derived from agricultural products such as livestock and grain. This area also produces a variety of fruit and vegetable crops. Timber products have historically been a major economic factor within the region due to the availability of high quality hardwoods. The manufacture and service sectors contribute heavily to the economic base of southwest Indiana.

The coal rich Illinois Basin extends into this region of Indiana creating the only coal producing area in the State. Coal mining (surface and underground) has been a major economic activity in Indiana since the late 1800’s. Coal mining is now a multi-million dollar industry with approximately 39 million tons of coal being mined in 2014. Limestone, crushed stone, sand, gravel, clay, gypsum, oil and gas are other products that come from the southwest area of the State.

SIGNIFICANT AESTHETIC, HISTORIC AND RECREATIONAL VALUES

884.13(a)(6)(ii)

Aesthetic Values

The Wabash Lowlands of southwestern Indiana topographically has a rolling landscape with broad flat valleys interspersed with open fields and patches of forest. Some of the more scenic areas are in the coal mine region. Many of these areas are lushly vegetated and contain numerous clear fishing lakes. The rolling fields of green corn and golden wheat are also a picturesque quality of the Wabash Lowlands.

Historic Values

Southwestern Indiana is rich in its historic and prehistoric past. Existing inventories of historic structures and archaeological sites for the portion of the State that has produced coal are known to be quite limited. Despite the lack of comprehensive inventories, it is recognized that structures and sites of historic and/or archaeological value may be within or in proximity to areas to be impacted by reclamation projects. Procedures are in place for the identification and evaluation of any resources that might be impacted by reclamation activity. Appropriate steps will be taken to ensure that all potential impacts of the reclamation process are mitigated when it is determined that harm may result to significant cultural resources. The staff Archaeologist will coordinate these activities with the Division of Historic Preservation and Archaeology.

Recreational Values

The southern one-third of Indiana was not affected by the last glacial event but was shaped primarily by non-glacial forces, such as stream erosion. The resultant landscape contains Indiana's most dramatic topography including deep V-shaped valleys, rugged hills and jagged escarpments. This region of Indiana now contains the vast majority of Indiana's remaining 5.1 million acres of forest land, eighty-five percent of which is in private ownership.

Southern Indiana, with its rugged forest lands, provides opportunities for forest recreation, such as hunting, hiking and camping. This area of the State contains the greatest proportion of public lands available for recreation in the State, although its population is less than in the northern two-thirds of the State.

An extensive, in-depth study of the use and availability of outdoor recreational facilities and the popular outdoor activities in southern Indiana is included in the "Indiana Statewide Outdoor Recreation Plan 2011-2015" and is available at: <http://www.in.gov/dnr/outdoor/4201.htm>.

FLORA AND FAUNA OF SOUTHWESTERN INDIANA

884.13(a)(6)(iii)

The Indiana Division of Fish and Wildlife is responsible for the administration of those portions of the Indiana Code which provide for the protection, reproduction, care, management, survival and regulation of the wild animal populations of the State of Indiana. In keeping with this mandate, evaluations of proposed abandoned mine land reclamation sites are conducted by the Reclamation Wildlife Biologist, in conjunction with the AML Environmental Specialist, as specified below:

- 1) Sites are evaluated to determine the presence of wetlands, endangered species or other environmental concerns.
- 2) The investigations are conducted during the planning stage of the AML project. The findings of these investigations are utilized during the design phase of the project.
- 3) During the design phase, recommendations are provided to enhance and/or improve wildlife habitat and preserve wetlands or other critical habitat during the construction phase of the project.

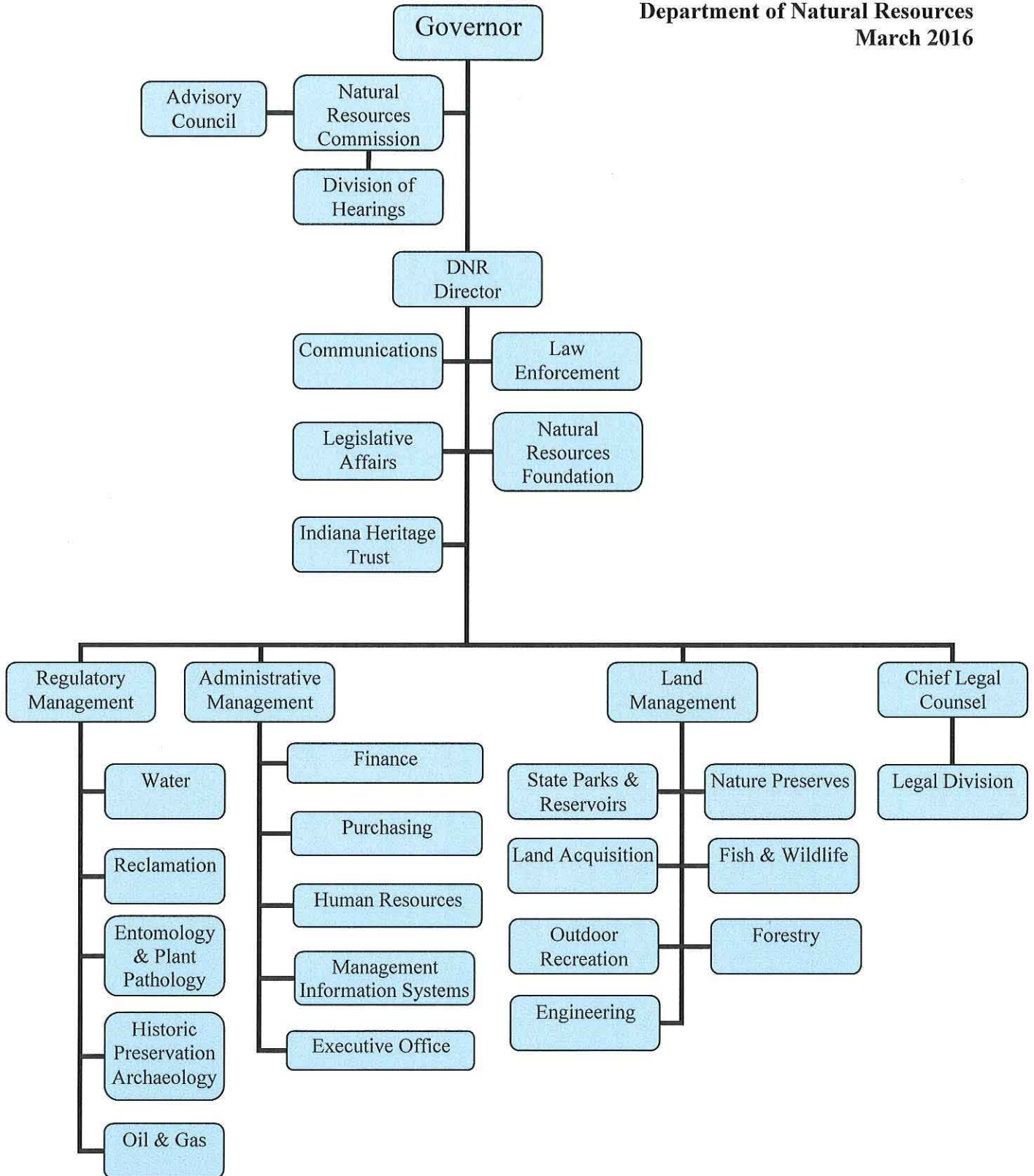
Endangered Species

The United States Fish and Wildlife Service (USF&WS) is responsible for the administration of the Endangered Species Act of 1973 which was established to protect and recover imperiled species and the ecosystems upon which they depend. The AML Program is required to coordinate with the USF&WS through the National Environmental Policy Act of 1969 to determine if a proposed reclamation project will adversely affect any federally listed threatened or endangered species. If, during the consultation process, it is determined that impacts are unavoidable, appropriate mitigation measures are developed and incorporated into the reclamation project.

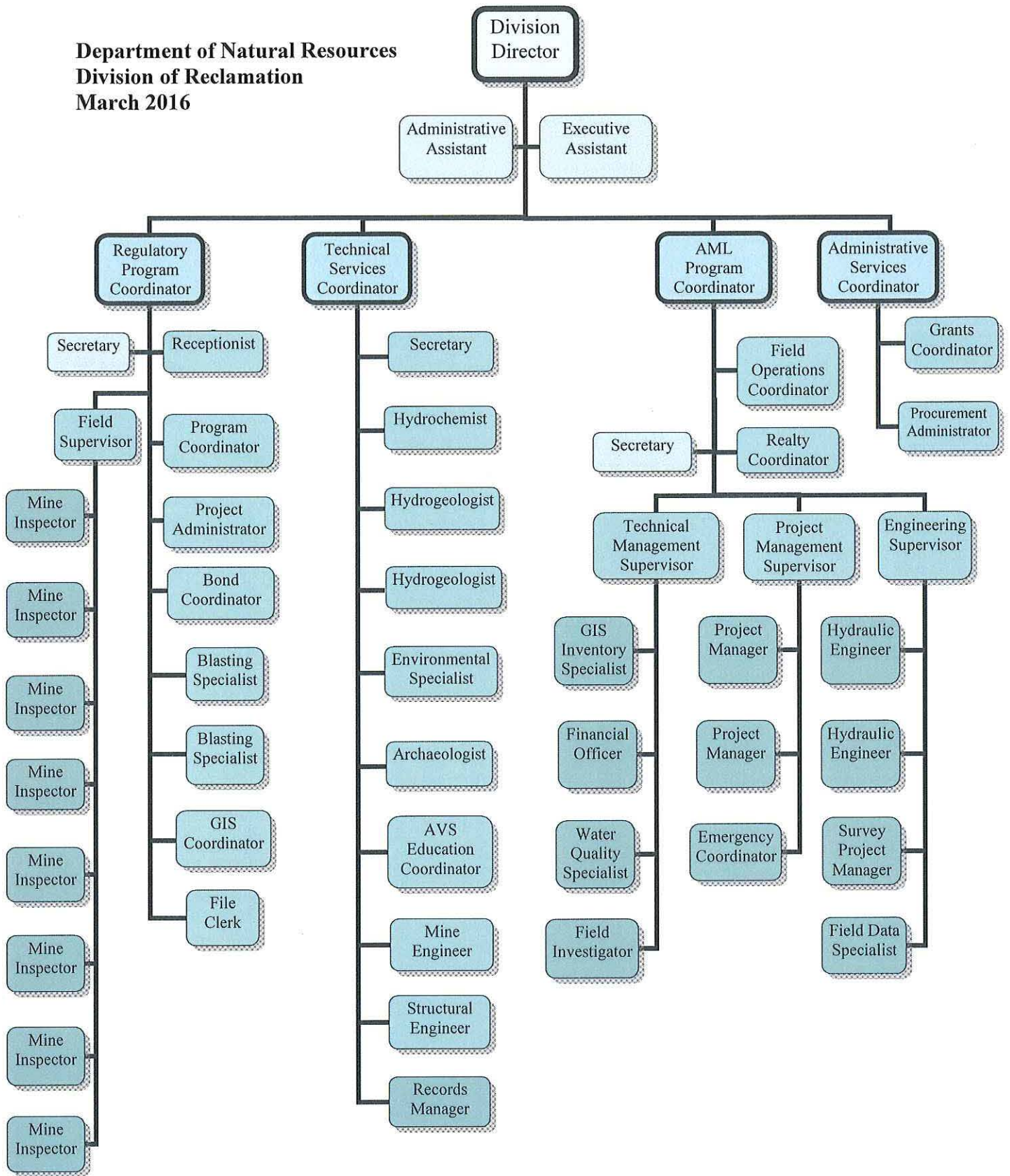
In addition to coordinating with the USF&WS, the AML Program also coordinates with the Indiana Division of Nature Preserves (DNP) which is responsible for identifying and protecting unique natural areas within the State. The DNP maintains the Natural Heritage Program Database which contains information on the status and distribution of outstanding natural communities, rare and endangered plants and animals and other special features. Upon request, the DNP searches the Indiana Natural Heritage Program Database to determine whether there are any important natural features recorded at or near the proposed reclamation project. This information is then returned to the Division of Reclamation for consideration during the design process.

The AML Program attempts to resolve any potential conflicts with endangered species or unique natural features by designing the project to avoid the critical habitat or natural feature. Projects that can not be designed for avoidance will be coordinated with the USF&WS, the Division of Fish and Wildlife and the Division of Nature Preserves to develop a plan to minimize disturbance and mitigate any losses.

Department of Natural Resources
March 2016



**Department of Natural Resources
Division of Reclamation
March 2016**



Locations of Documented Surface and Underground Coal Mines in Southwestern Indiana

