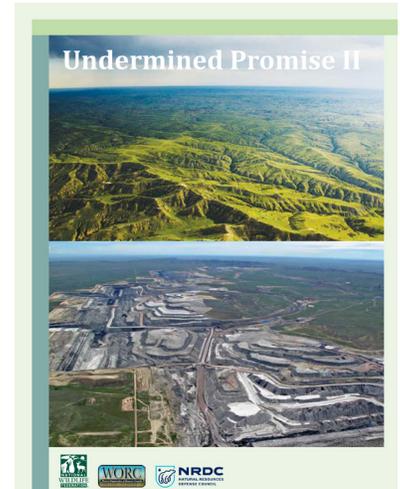


Fact Sheet

Undermined Promise II

Almost eight years ago, with the release of *Undermined Promise*¹ marking the 30th anniversary of Surface Mining Control and Reclamation Act (SMCRA), WORC and NRDC found that the landmark law's intent was not being fulfilled. Unfortunately, little has changed since then. *Undermined Promise II* finds that mining companies and regulatory agencies continue to fall short of the promise of SMCRA.

SMCRA was enacted to ensure that sound mining and full reclamation be done in a timely and complete fashion. Yet, after decades of mining in the West, it is becoming evident that some coal companies may soon not have the resources to fulfill their reclamation requirements. Few mines have achieved substantial bond release. As coal mining declines in the region, the burden of its legacy will fall on the public.



Reclamation Status Measured by Bond Release in 3 Western States

	Disturbed Acres	Phase I	Phase II	Phase III
Wyoming	173,914 / 100%	63,320	24,806	10,607 / 6%
Montana	39,953 / 100%	19,480	13,367	3,870 / 10%
North Dakota	73,575 / 100%	19,343	15,209	15,196 / 21%
Total 3 States	287,442 / 100%	102,143	53,382	29,673 / 10%

Bond release is the measure of reclamation success. In Wyoming and North Dakota, Phase III is the final determiner of reclamation success. Montana has a Phase IV that incorporates success of hydrologic restoration.

Key Findings

- After decades of mining, of 450 square miles of disturbed mined land in Montana, North Dakota, and Wyoming, only 46 square miles has met the reclamation requirements for final phase III and IV bond release. This calls into question the industry's prospects of successfully reclaiming the harsh, brittle and semi-arid ecosystems of Western states.
- The gap between acres of land disturbed by mining and acres released from reclamation bond continues to grow, and with it the outstanding bond liabilities of coal companies grow. The largest mines have bonds in excess of \$300 million apiece.

Peabody's North Antelope Rochelle Mine in Wyoming – one of the largest in the world – covers an astounding 57,198 acres, including 22,631 acres of federal lands and 5,277 acres of state lands. It started operating in 1984, but to date², no acreage has been released from final bond obligations.

References

¹ **Undermined Promise: Reclamation and Enforcement of the Surface Mining Control and Reclamation Act 1977-2007**, ©2007, Western Organization of Resource Councils and Natural Resources Defense Council, www.underminedpromise.org

² November 2014

- Some states allow larger coal corporations to “self-bond” their mining reclamation obligations rather than collateralize them with financial assurance instruments. The alarmingly weak financial state of nearly all large coal companies mining in the West, including industry giants Alpha Natural Resources, Arch Coal and Peabody Energy, raises serious questions about the companies’ capacity to fulfill reclamation requirements, as well as the likelihood that some or all of the over \$2 billion burden of mine reclamation will fall on taxpayers.
- Water is the most precious natural resource in the semi-arid West and protection of the hydrologic balance is a principal goal of SMCRA, yet mine permits too often fail to adequately capture essential data to fully assess the baseline hydrologic balance. Water resources cannot be protected during mining or afterward without this data.
- Reclamation in the fragile sage steppe environment of the West that is home to the threatened sage grouse and hundreds of other wildlife species may take decades of natural development to reestablish the characteristics of native shrub communities comparable to pre-mining conditions.
- Compliance with SMCRA’s mining and reclamation standards require state and federal inspections, yet between 2006-2013, the number of regulatory inspection staff decreased by nearly 14%, as the number of western acres disturbed by mining expanded by 15%.

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Recommendations

- The Office of Surface Mining (OSM) should require higher bond amounts in order to motivate companies to reclaim mined land and apply for bond release.
- State and Federal regulators must do a more thorough and diligent job auditing the financial positions of present and future self-bond guarantors, particularly with respect to prior or duplicate encumbrances on the same assets used to ensure reclamation.
- Mine regulatory agencies should stop issuing new area permits at mines where significant acreages of strip mined land have not met Phase III bond release.
- The Bureau of Land Management should not issue new federal coal leases to mining operators who have not attained bond release on at least 50% of eligible disturbed lands.
- Regulators need to ask for a more thorough and comprehensive characterization of the hydrology of proposed new mining areas in order to adequately protect the surface and groundwater resource post mining.
- OSM needs to ensure that bonding amounts and terms are sufficient to ensure that wildlife habitat is restored.
- Agricultural production data on mined lands should be collected and publicly available so citizens can assess the progress or failure of reclamation of agricultural land, both crops and grazing.

For More Information

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