



2009 Report to the Governor



New Mexico
Bureau of Mine Safety

The State Mine Inspector's 2009 Report to the Governor

Cover Photo:

The cover photo was taken underground by the SMI at Mosaic Potash Carlsbad Inc. Mr. Alfonso Luna recently retired from Mosaic's underground mine as an United Steel Worker welder/mechanic. His 30+ years were completed accident free.

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New Mexico Tech

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Overview

Introduction

The New Mexico Bureau of Mine Safety (BMS) is a department of the New Mexico Institute of Mining & Technology (NMT).

Directed by the State Mine Inspector, the department is a state and federally funded organization providing services to New Mexico and its miners in numerous areas that include:

Mine Rescue and Emergency Response - Coordination of incident response, equipment and human resources.

Legislative Issues Relative to Miner Safety-

Includes being the point of contact for the Governor's office on mine related issues and legislation.

Safety and Health Training -

Providing safety and health training to mine workers, contractors, as well as federal and state organizations involved in mine-related activities.

The Bureau of Mine Safety and the State Mine Inspector are the representatives of New Mexico responsible for the safety of the State's miners, and accountable at State and Federal levels including:

- The Mine Safety and Health Training Program and Coal Mine Official's Certification Program are mandated, certified and audited by the U.S. Department of Labor, Mine Safety & Health Administration.
- Activities including emergency response coordination and compliance with state mining law are State of New Mexico statutory duties of the State Mine Inspector.

Excellent Miner Safety in New Mexico

Due to the concerted leadership of the governor, legislators, the mining industry, and state and federal officials at many levels, New Mexico has not only demonstrated a commitment to miner safety, but also fostered the necessary environment that upholds excellent mine safety standards. 2009 was a record year for the country as a whole, in the reduction of mine fatalities. **New Mexico continues to have lower accidents per man hour worked than the national average.**

In the last year significant accomplishments have contributed to miner safety in New Mexico:

Emergency Preparedness

The New Mexico State Mine Inspector (SMI), in conjunction with the New Mexico Department of Homeland Security and Emergency Management (NMDHSEM), continues the process of initiating underground mine operators to the incident command system (ICS) and statewide response capabilities of NMDHSEM and other state, local and industry organizations.

This process will foster a relationship between NMDHSEM, the State Mine Inspector, and the mining operators of New Mexico, so in the future we will be able to collaborate and operate

in a seamless fashion during an emergency.

Immediate Application of New Information

Mining safety is an ever-evolving science. Regulatory and technological changes are tracked by the SMI in order to educate the NM mining industry. Educational methods include classroom instruction, newsletters, special bulletins and conferences sponsored by the SMI with other organizations.

Training is the Keystone of Safety

The Bureau of Mine Safety exists to actively promote the safety of the miners of New Mexico. BMS trained over 2500 miners during 2009. This includes over 300 miners trained in Spanish language classes.



BMS New Miner Training

BMS training and initiatives have contributed to a superb safety record, including accident rates below the national average.

2009 Accomplishments

Mine Emergency Management

The major initiative in 2009 continued to be establishing an incident command system in response to the following statutory requirement of 69-5-7.A(2) NMSA 1978:

Upon notification of any explosion or other catastrophic event at a mine in which the lives of mine workers are jeopardized or in which fatalities have occurred, the State Mine Inspector shall allocate available resources within a twenty-four-hour time period to assist the mine operator in the rescue of persons and the subsequent accident investigation;

To meet this requirement, the State Mine Inspector has brought together industry, BMS and the Department of Homeland Security and Emergency Management (DHSEM) to create an incident command system. The major effort this year was working with San Juan Coal Company (SJCC) on their Mine Emergency Response Development (MERD) exercise at the San Juan underground coal mine. This exercise involved state, federal, and mining industry groups. The exercise scenario was an underground fire and worker entrapment.

This scenario allowed the organizations involved to test multiple resources at

many different levels. The exercise was very successful and a great deal was learned. The goal of the SMI is to continue working with mine operators conducting these types of exercises in other parts of the state.

Miners don breathing apparatus prior to evacuation during the SJCC MERD exercise



Legislative Issues

During 2009, a draft of legislation was prepared for the 2010 regular session. The draft recommended changes in Coal Officials Certification requirements and proposed an appeal process for penalties imposed on mining operators. The draft was presented to the interim Radioactive and Hazardous Materials Committee (RHMC) after consultation with the New Mexico Mining Association (NMMA), and members of the International Union of Operating Engineers (IUOE). A bill was prepared, sponsored by Representative John Heaton on behalf of the RHMC for consid-

eration during the 2010 legislative session. The major focus of the proposed legislative change was allowing recertification of Coal Mine Officials utilizing retraining and continuing education versus testing. The office of the SMI would have incurred significant expense had retesting been required.

Compliance Assessment

The 2006 and 2007 legislation imposed strict requirements on the mining industry that must be assessed for compliance by the BMS. Actions completed in 2009 included:

- Review Emergency Notification Plans from approximately 300 mining operations throughout the state. Current status indicates that over 92% of the operators have complied with this requirement. We continue to request information from the remaining operators, although there are no statutory criteria, either through notice of violation or cease-and-desist orders, to require compliance.
- Review underground mine operators' implementation plans to insure compliance with mining regulations. Review and approval by the State Mine Inspector included constant communications and frequent site visits during 2009.
- Development of rules defining Statutes was formulated, and approved by the Mining Safety Board (MSB).

Rules were placed into the New Mexico Administrative Code (NMAC) regarding revisions to the penalty structure for emergency notification.

One violation for failure of emergency notification was issued by the SMI during 2009. The incident for which the violation was issued involved a fire on a fuel truck which burned longer than one half hour. The operator failed to notify the SMI of the fire as required by regulation.

Fuel truck fire resulted in violation and penalty



Compliance assistance continues to be a major responsibility for BMS. The Statutes require the State Mine Inspector (SMI) to provide compliance assistance including on-site audits to any mine requesting such service. As the economy improves and operations begin to recover from the recession, this service will be utilized to a greater degree. Also, as MSHA requires greater compliance on health issues such as dust sampling, more

effort will be required assisting operators in health related areas.

Safety and Health Training

Engaging miners, through safety training, is the primary mission of the BMS. The upswing in the mining industry in New Mexico has increased the number of miners and contractors seeking training from BMS. This trend is expected to continue into the future and be intensified by a predicted economic recovery.

Safety & health training was delivered to over 2,500 miners, contractors and other personnel from diverse mining

mine fatalities. New Mexico continues to have lower accidents per man hour worked than the national average. BMS training and programs were a significant contributor to this success.

Coal Mine Officials Certification Program

During 2009, a review of re-certification requirements and testing criteria for coal mining officials was conducted. This has been a collaborative process with the coal mining industry in New Mexico. The data base of questions continues to be reviewed by the BMS to keep testing relevant.



Candidate for Coal Mine Foreman Certification works on a ventilation map during testing

environments. BMS is particularly proud of its miner training program delivered in Spanish.

As the number of mines and miners increases in New Mexico, we have enjoyed a period of extremely safe operations, evidenced by accident and fatality statistics. 2009 was a record year for the country as a whole in the reduction of

Prior to 2007 legislation, coal mine official's certification did not expire. Now, certifications must be renewed every five years. This will greatly increase the number of officials' certifications that must be renewed. The SMI worked with the Mining Safety Board to adopt regulations for the recertification process.

Mine Safety Awards

BMS was instrumental in arranging the mine safety awards at the annual New Mexico Mining Association meeting in September. There were over 200 attendees at this convention, including representatives of mining companies, contractors, legislators, Governor's cabinet and government agencies. Awards were presented for:

- Safety and Health Innovator Award. This award was given to operators who best implemented innovative safety processes. In 2009, awards were presented to Chevron Mining Inc. – Questa Mine, BHP Billiton's San Juan Coal Company and BHP Billiton's Navajo Mine.
- Safe operator of the year award was presented to seven operators representing different mine categories. Five of these operators worked for a year with no reportable accidents. Lee Ranch Coal worked 298,000 man-hours without incurring a reportable accident at the mine. The other award winners are listed in the table below:

- 110 zero-frequency certificates were awarded to mining organizations throughout New Mexico. These certificates were given to individual organizations or different departments within larger companies that were accident-free for a year.

The Lifesaving Response Award was continued in 2009. The mining industry invests many hours in first aid training and mine rescue training. These individuals and groups not only respond at the mines where they work, but also within their communities. Many volunteer as EMTs, first responders, and firefighters where they live, and are often leaders within these organizations. Recognition was given to individuals and the mining organizations that employ and train them. The Lifesaving Response Award was given to an individual or group who responded to a lifesaving situation, either at the mine where they work, or within the community.

Three awards were given in 2009 to Mosaic Potash, Intrepid Potash and Chevron Mining. Responses included employee lifesaving efforts on public highways by Mosaic and Intrepid employees.

Safe Operator of the Year

Category	Company Name	Mine Name
Underground Coal	BHP Billiton	San Juan Coal Company
Surface Coal	Peabody Coal	Lee Ranch
UG Metal/Non-Metal	Chevron Mining, Inc.	Questa Mine and Mill
Non-Producing Operations	Rio Algom Mining LLC	Ambrosia Lake Reclamation
Surface M/NM	Freeport-McMoRan-Cobre	Continental Mine and Mill
M/NM Mills	Intrepid Potash, NM LLC	North
Sand and Gravel	Vulcan Materials Co.	Santo Domingo Pueblo Mine



Members of the Navajo Mine maintenance department receive the Innovator of the Year Award

The awards were particularly gratifying because of the excellent safety record that New Mexico operations have registered during 2009. We have changed a generation of thinking that said zero accidents was not an obtainable goal, to one that says it is the only acceptable goal.

Communications

In an effort to communicate more effectively and cohesively with the mining industry, our website continues to expand and is updated to insure that information is readily available to the industry as well as the public at large. The website address is:

www.bmi.state.nm.us.

During 2009, numerous meetings were held with mining operators throughout the state. These meetings informed industry of BMS's direction and addressed concerns of the operators. A significant effort was also extended to keep information flowing to the Office of the Governor, the NMMA, the Cabinet Secretary of the Energy Minerals and Natural Resources Department, the Director of the New Mexico Mining and Minerals Division and various groups within the NMT community.

Mining Safety Board (MSB)

During 2009, much effort was extended working with the Mining Safety Board to update Regulations in the New Mexico Administrative Code (NMAC).

Also, the MSB began a program to educate members on various aspects of mining. Meetings were held across the state so mining operations could be toured and experts in technical subject matter were invited to speak at meetings. This will contribute to better deci-

sion making by the MSB and better public policy.

During 2009, the terms of all MSB members expired. Ten of thirteen members applied for reappointment. This is an indicator that MSB members consider the membership rewarding and worthwhile.

Federal Grants

The BMS worked on its major grant application during 2009. This application was for renewing the FY 2009 grant agreement between the Mine Safety and Health Administration (MSHA) and New Mexico Institute of Mining and Technology, for three additional grant periods (October 1, 2009 through September 30, 2011). The grant has been utilized by BMS to train New Mexico miners to meet the training requirements of MSHA as required in 30CFR parts 46 and 48. The grant application was completed in August and

approval of the \$147,305 grant was received in September.

BMS applied for permission to use the grant funding from our special 2008 award entirely on equipment. A mine rescue trailer has been ordered that will house a compressor, generator, and refrigeration equipment. This will allow quick transport of this equipment



MSB members examine roof and rib in potash mine

in the unlikely event of a major mine emergency. The trailer is an integral part of the mine emergency management activities that have been undertaken by BMS.

Counsel from Attorney General

Counsel provided by the Attorney General's Office was utilized in rule-making, consideration of violations and other areas of decision making. This service has been invaluable in support of such actions as violations, settlement agreements, statutory issues and other legal issues.

2010 Goals

Mine Emergency Management

During 2010, the Mine Emergency Management process will continue. Our goal of providing for a seamless incident command structure between the mining operation, state officials, federal inspectors and local emergency response organizations in the event of a mine emergency will be enhanced by performing extensive drills at mine sites.

The 2010 goal is to complete another functional exercise. The State Mine Inspector in conjunction with DHSEM personnel will work with local, county, state emergency managers, as well as federal and state mine safety personnel. Currently a MERD (Mine Emergency Response Development) is planned in Carlsbad that will

involve all these groups.

BMS is also facilitating training involving mine personnel and local EMS that focuses on training local EMS personnel in hazards that can be expected at mining operations. This will allow local EMS to respond more safely in a mine emergency.

Legislative Issues

The SMI will continue to act as a contact and informational source regarding any mining legislation involving mining safety. During 2010, the SMI will work with legislators, unions and industry representatives regarding changes in the Statutes on Coal Officials Certification and emergency notification appeals.

Mine Safety Inquiries from the Office of the Governor

The office of the New Mexico State Mine Inspector will continue to be the focus for the Office of the Governor for information and expert opinion regarding mine safety issues. Response to these inquiries will continue to be handled expeditiously. The SMI will also begin active involvement with the Interstate Mining Compact Commission on the IMCC safety committee. This will help give New Mexico a voice on national mining safety issues.

Compliance Assessment

During 2010 compliance assessment will continue to be a priority for BMS. Compliance assessment consists of reviewing

implementation plans for underground mine operators on a yearly basis. The emergency notification plans for all mine operators will be reviewed bi-annually as well. BMS works with the operators on any unresolved issues or gaps in the plans

Safety and Health Training

Safety and health training will continue as the keystone to continued accident reduction in New Mexico. We anticipate training 2,500 miners in 2010. It is anticipated that a resurgent uranium industry, along with the expansion of mining in New Mexico in general, will produce a need for greater training capabilities from the BMS. It is also anticipated that Spanish-language training will be a growing need in New Mexico. Currently this training is limited. The BMS is one of the few organizations with a trainer who is both fluent in Spanish and a MSHA certified instructor. However, if funding is not increased for the BMS, the training program will continue into 2010 with little change from 2009 and the inability to meet the expected demand.

Certification of Coal Mine Officials

The coal officials certification program will continue to be updated to remain relevant. Discussions are under way with operators regarding the recertification of officials and the implementation of that process. It is anticipated that a cost savings can be realized by BMS without sacrificing miner safety by changing require-

ments for recertification from "testing" to a program of retraining and continuing education that would require SMI approval and monitoring.

Mine Safety Awards

BMS will continue this critical tool to communicate successes of safety programs throughout New Mexico. In order to continue this program, it is important to maintain the partnership between BMS and NMMA. The BMS also plans to communicate the availability of the program to encourage participation by more of the New Mexico mining industry.

Communications

The BMS plans several initiatives in 2010 to increase our communications with the public and the mining industry. Our goal for 2010 is to utilize a revamped website as our primary communication tool. The site will be the primary source for training schedules, monthly newsletters, BMS reports, emergency mine notification and other mine safety issues.

Effective communications with customers will continue to be a major goal of 2010. As in 2009, interaction with the mining community, the Office of the Governor, NMT staff and other governmental entities will continue to be a communications focus.

Mining Safety Board

Rulemaking will be a primary goal of the BMS to complete through the MSB. Education of MSB members is also a priority to enhance the Board's ability to effectively develop regulations.

day. Later in the week he saw an orthopedist who scheduled him for surgery on April 8th. He underwent the ligament repair but tragically died from a blood clot two days later, almost a month following



Farm-type tractor on which victim attempted to clean rear window

2009 Mining Fatality

On March 19, 2009, an employee of Freeport McMoRan Reclamation Services, at the Chino Mine, stepped out of the cab of a farm-type tractor to clean a window. He stepped toward the window when his knee gave out. The employee did not slip or trip, and had good footing from a flat stable surface. As the employee's weight shifted, his knee buckled, causing ligament damage.

He was taken to the emergency room that

the incident.

MSHA ruled that this was a mine related fatality. Based on the circumstances, this interpretation by MSHA involves some uncertainty and an opposite ruling, that the incident was not chargeable to the mine, could have been made.

However, with MSHA's decision, New Mexico was charged with a mining fatality in 2009.

Roster of State Mine Inspectors

NAME	DATES	ORDER	LENGTH OF SERVICE
Rees H. Beddow	1912 - 1916	1 st	4 yrs
W. W. Risdon	1916 - 1919	2 nd	3 yrs
Jo E. Sheridan	1919 - 1920	3 rd	<1 yr
W. W. Risdon	1920 - 1925	4 th	5 yrs
Warren Bracewell	1925 - 1927	5 th	2 yrs
W. W. Risdon	1927 - 1931	6 th	4 yrs
Warren Bracewell	1931 - 1947	7 th	16 yrs
John Anthony Garcia	1947 - 1959	8 th	12 yrs
John Grbac	1959	9 th	<1 yr
William H. Hays	1959 - 1973	10 th	14 yrs
Joe D. Longacre, Sr	1973 - 1981	11 th	8 yrs
Desi Apodaca	1981 - 1982	12 th	2 yrs
Manual Duran	1982 - 1986	13 th	4 yrs
Desi Apodaca	1986 - 1996	14 th	10 yrs
Gilbert Miera	1996 - 2002	15 th	6 yrs
Paul Pierce	2002 - 2005	16 th	3 yrs
Rebecca Boam	2005 - 2006	17 th	2 yrs
Terence Foreback	2007 -	18 th	3 yrs

AFTERWORD

The Bureau of Mine Safety wishes to congratulate Charles Aweya. Charles has worked as our student intern for three years and completed his B.S. in Mineral Engineering from NMIMT in May of 2010. He is shown receiving his diploma from NMIMT President Dr. Lopez at commencement exercises.

