DEPARTMENT OF THE INTERIOR
OFFICE OF INSPECTOR GENERAL

AUDIT REPORT

BUREAU OF LAND MANAGEMENT
MINING CLAIMANT ADMINISTRATION

Report No. C-IN-BLM-0011-2008 May 2009

United States Department of the Interior

OFFICE OF INSPECTOR GENERAL
Central Region
134 Union Blvd., Suite 510
Lakewood, CO 80228

May 4, 2009

Memorandum

To: Mike Pool
Acting Director, Bureau of Land Management

From: Jack Rouch
Regional Audit Manager

Subject: Final Audit Report, "Bureau of Land Management - Mining Claimant Administration" (Report No. C-IN-BLM-0011-2008)

Last year, we conveyed our grave concerns to the Department of the Interior regarding its failure to act to mitigate the hazards posed by abandoned mines on federal lands. As stated in that July 2008 report (C-IN-MOA 0004-2007), "Mines located primarily in the Western States of California, Arizona, and Nevada have dangerously dilapidated structures, serious environmental hazards, and gaping cavities — some capable of swallowing an entire vehicle." At that time, we made several recommendations that the Bureau of Land Management (BLM) agreed could improve its efforts to protect the public.

This report presents the results of a second audit 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. We found that BLM has often been unable to effectively identify, notify, or request cooperation from claimants to mitigate these hazards.

Based on the response to the draft report, we consider all the recommendations to be resolved. Therefore, a response to this report is not required. We will refer the recommendations to the Assistant Secretary for Policy, Management, and Budget for tracking of implementation.

The legislation, as amended, creating the Office of Inspector General requires that we report to the Congress semiannually on all reports issued, actions taken to implement our recommendations, and recommendations that have not been implemented.

If you have any comments or questions regarding this report, please call me at 303-236-9243.

Attachments (7)

Background of BLM Administration of Mining Claims

The General Mining Law of 1872 established the rights of individuals to explore, claim, and mine public lands containing mineral deposits. This law promoted the development and settlement of the American West but required little mitigation of the physical and environmental hazards that mining created. In fact, mine operators were not required to mitigate the hazards they created until 1976 and the passage of the Federal Land Policy Management Act (FLPMA). Prior to FLPMA, claimants left hundreds of thousands of abandoned mine sites on public lands. Today, many of these sites present serious safety hazards to the public, including open shafts and unstable tunnels, deadly gases, explosive and toxic chemicals, and rotting structures. Unfortunately, current claimants may not even be aware of abandoned mine hazards on their claims.

BLM established its Abandoned Mine Lands Program to protect the public from these hazards. To successfully mitigate these sites and protect claimant rights, BLM must coordinate with current claimants even though they are not responsible for mitigating abandoned mine hazards on their claims. Mitigation may include temporary measures, such as fencing and signs, or more permanent and costly measures, such as concrete or metal mine shaft covers.

What We Found

BLM is missing opportunities to enhance public safety by neither coordinating with claimants as it takes steps to identify and mitigate hazards on public lands itself nor actively seeking claimant cooperation and assistance in mitigating the hazards.

Mining Claim Identification

As required, BLM maintains an inventory of known abandoned mine hazards. BLM employees, however, are not required to and do not typically identify whether or where such hazards are located on existing mining claims, which makes subsequent claim and claimant identification difficult. BLM field staff told us that often the only way to determine if a hazard is on a claim is to visit the site and locate the claim boundary markers. This process is both labor and time intensive.

Notification of Claimants and Solicitation of Cooperation

Historically, BLM has rarely contacted claimants to request cooperation and assistance in mitigating hazards. To determine whether BLM has begun to work effectively with mining claimants over the last few months, we developed a questionnaire for BLM offices. We received 53 responses from 6 state offices, 3 district offices, and 44 field offices. Responses to the questionnaire revealed that most offices do not notify claimants of hazards on their claims or request that claimants assist in the mitigation of those hazards. The reasons they provided included the difficulty of precisely locating mining claims and of identifying the respective claimants. In addition, we found that confusion exists among BLM field staff regarding claimant responsibilities. Some staff members believe that claimants have total

responsibility for mitigating all abandoned mine hazards on their claims, while others believe the claimants have no responsibility.

Under federal law, claimants are ultimately not responsible for mitigating abandoned mine hazards; however, they may be interested in mitigating any such hazards on their claims for a variety of reasons, including:

- **Concern for public safety**: To promote public safety on their claims.

- **Future use**: To preserve mining features, such as shafts and tunnels, to use in future operations instead of allowing BLM to permanently seal them. In such cases, claimants might take responsibility for the features and implement temporary mitigation measures, such as fencing and signs to protect and warn the public of the hazards.

- **Statutory compliance**: To comply with state laws. Nevada and Arizona both have statutes requiring claimants to mitigate known abandoned mine hazards. Nevada's statute (Nevada Administrative Code, Chapter 513) requires claimants to post warning signs at dangerous abandoned mine hazards within 30 days of notification and to mitigate hazards with barricades, fences, seals, or backfilling. Arizona's Statute (Arizona Statute 27-318) requires claimants to cover, fence, fill or otherwise secure the hazard and post warning signs within 60 days. Neither statute assigns responsibility based on when or by whom the hazard was created.

- **Potential liability**: To avoid potential lawsuits due to the liability associated with people being injured or killed by abandoned mine hazards on their claims. Establishment of liability could be especially successful in states with statutes that require claimants to mitigate such abandoned mine hazards.

Whatever their motivation might be, claimants are not likely to do anything concerning abandoned mine hazards on their claims unless BLM notifies them of the hazards and requests their assistance. One field office has been successful in that regard. BLM's Elko Field Office told us they had success in getting hazards mitigated by claimants. The field office sent letters to claimants 1) notifying them of abandoned mine hazards on their claims, 2) requesting they accept responsibility for those hazards, and 3) informing them that BLM would mitigate the hazards if they did not.

We believe that other offices will soon be able to achieve the same success as a result of BLM's new Instruction Memorandum (IM) No. 2009-034, issued November 28, 2008. This IM implements a new effort called FAST! (Fix a Shaft Today!), which is designed to develop partnerships with other governmental agencies and private organizations to accelerate mitigation of abandoned mine hazards. The IM specifically instructs BLM state directors in Arizona, California, Colorado, Nevada, New Mexico, and Utah to contact mining claimants and request that they voluntarily mitigate hazards on their claims.

In addition, BLM has prepared two notices for state offices to use in contacting claimants (Attachments 4 and 5). In the first notice, BLM describes the FAST! Program and the role

of mining claimants. It also offers assistance to claimants with abandoned mine hazards and informs them that mitigation can potentially save lives and reduce claimant liability. The second notice documents recent accidents at abandoned mine sites to reinforce the importance of timely mitigation. IM 2009-034 requires state offices to provide these notices to all claimants in their states within 120 days or around April 1, 2009.

While we are pleased with BLM's FAST! initiative, claimants, as noted previously, may be unaware of hazards on their claims. The IM helps clarify BLM authority; it does not address the need for BLM to take action to mitigate serious hazards on mining claims if claimants do not act upon BLM's notification.

Hazard Mitigation

After we began our audit, BLM and the Solicitor's Office began to develop an IM that would provide BLM staff the guidance necessary to protect the public at these sites. We see this as a positive step because BLM — in the absence of claimant assistance — is ultimately responsible for protecting the public by mitigating abandoned mine hazards.

With current resources, we believe BLM could mitigate the most serious abandoned mine physical safety hazards with signs and fences. Factors that BLM uses to identify high risk physical safety hazards include sites 1) where a death or injury has occurred; 2) that are in close proximity to recreation sites and other areas with high visitor use; and 3) that are easily accessible to the public. Should a claimant want to use mining features in operations, installation of signs and fencing would not significantly interfere with access. The only truly permanent resolution would be to fill in shafts and demolish or remove buildings and structures.

Best Practice

We identified one best practice within BLM that has improved public safety with regard to abandoned mine hazards. Specifically, BLM has cooperated extensively with the State of Nevada to identify, inventory, and mitigate hazards on abandoned mine sites where claims may exist. A 1994 BLM and Nevada Division of Minerals Cooperative Agreement enabled this effort.

The Agreement describes roles and responsibilities for dealing with abandoned mine hazards on BLM land in Nevada. Per the Agreement, BLM provides annual funding to Nevada for mitigation services. Funding for fiscal year 2008 totaled about $50,000. Since 1994, Nevada has mitigated about 3,750 hazardous mine features on BLM land.

Recommendations

Public health and safety require BLM to identify claims with serious hazards, notify claimants, solicit claimant mitigation of hazards on their claims, and, if necessary, mitigate the hazards. Therefore, we recommend that the Director, BLM:

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

BLM's Response to the Recommendation

BLM concurred with the recommendation and stated that it will work with the Office of the Solicitor to prepare an IM that will address BLM's authority and field office responsibility with regard to abandoned mine hazards on mining claims.

OIG's Analysis of BLM's Response

BLM is taking the necessary action to address this 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.

BLM's Response to the Recommendation

BLM concurred in part with the recommendation and will issue the recommended IM. However, BLM expressed concern about Attachment 3's suggestion to "identify the precise location of mining claims and respective claimants." BLM does not have the ability to precisely identify the mining claim associated with specific abandoned mine hazards because mining claims are typically around 20 acres, however BLM's databases only capture them in 160 acre tracts. Therefore, BLM will notify claimants of abandoned mine hazards within the 160 acre tract that includes their claims. The IM will direct field offices to require immediate action if the claimants have utilized or intend to utilize these abandoned mine features in conjunction with work on their mining claims. Otherwise, if claimants decline to accept responsibility or voluntarily mitigate abandoned mine hazards on their claims, the IM will instruct the field offices to include those hazards in the Abandoned Mine Land program and prioritize them for mitigations.

OIG's Analysis of BLM's Response

We modified Attachment 3 to delete the word "precisely." We agree with the actions that BLM plans to take to implement this 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.

BLM's Response to the Recommendation

BLM management concurred with this recommendation and stated that it will share the success story of the BLM's Nevada State Office with other state offices and encourage them to seek other best practices and seek innovative ways to address mitigation of abandoned mine hazards on mining claims.

OIG's Analysis of BLM's Response

BLM is taking the necessary action to address this recommendation.

Prior Audits

AUDIT NO. AND TITLE	SUMMARY
C-IN-MOA-0004-2007 **Abandoned Mine Lands in the Department of the Interior, July 2008**	This report presents the results of our audit of abandoned mine lands managed by BLM and the National Park Service (NPS). We visited approximately 45 areas with abandoned mines from March 2007 through April 2008 and talked to over 75 employees from 13 BLM offices and 5 national parks. We concluded that BLM and NPS are putting the public's health and safety at risk by not addressing hazards posed by abandoned mines on their lands. Although NPS has been more effective at protecting the public, there are still many more sites that need to be mitigated. Mines located on BLM and NPS lands primarily in the western states of California, Arizona, and Nevada have dangerous physical safety and serious environmental hazards. We identified abandoned mines where members of the public have been killed, injured, or exposed to dangerous environmental contaminants. Growth of the population and use of off-road vehicles in the West will increase the likelihood of additional deaths or injuries.
C-IN-BLM-0012-2007 **Environmental, Health and Safety Issues at Bureau of Land Management Ridgecrest Field Office** **Rand Mining District, CA, September 2007**	This report describes hazardous conditions at abandoned mine sites in California's Rand Mining District (District) that required immediate action to protect the health and safety of the public and employees. In February 2006, BLM identified evidence of serious environmental contamination in the District. Known contaminants included levels of arsenic that were thousands of times higher than EPA-recognized safe levels. Arsenic is a known carcinogen that can also cause skin, stomach, and nerve damage. While BLM has initiated a Time-Critical Removal Action under the Comprehensive Environmental Response, Compensation, and Liability Act, it has not taken timely action to mitigate the current health risks to the public and employees.

Scope and Methodology

We performed this audit from August 2008 through February 2009. To accomplish our objective, we relied on our prior audit fieldwork performed during the Abandoned Mine Lands Audit (C-IN-MOA-0004-2007) and the Rand Mining District Audit (C-IN-BLM-0012-2007). In addition, we conducted the following audit steps:

- Gathered general, administrative, and background information to provide us with a working knowledge of the mining claimant administration process.
- Identified and reviewed policies and procedures and other pertinent documentation related to the mining claimant administration process.
- Worked with BLM to send questionnaires (14 questions) to BLM state and field offices (received 55 responses).
- Interviewed various BLM employees, including staff from the Solid Minerals and Abandoned Mine Lands Programs.
- Interviewed officials representing the DOI Office of the Solicitor.
- Contacted various State agencies with responsibilities for administering and enforcing mining laws.
- Reviewed abandoned mine inventory data and BLM's land status database, which includes claimant information (LR 2000 database).

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Areas To Be Addressed by Instruction Memorandum

AREA	PROCESS
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.

SAFETY NOTICE

FAST!
FIX A SHAFT TODAY!

NAAMLP NMA

BAT CONSERVATION INTERNATIONAL
www.batcon.org

To Active Mining Claimants in Southwestern States

The Bureau of Land Management (BLM), Forest Service, the National Association of Abandoned Mine Land Programs, and the National Mining Association are concerned about increasing numbers of abandoned mine safety hazard-related accidents occurring in the Southwestern desert states. According to Mine Safety Health Administration (MSHA) approximately 29 people die each year due to accidents involving mine land features. Deaths and injuries have occurred on lands mined and then abandoned. A growing number of fatalities are occurring on private and public lands.

In the past, many abandoned mine lands were considered remote, but with population growth, urban sprawl, and increased recreation use (e.g., motorcycles and off-highway vehicles (OHV), accidents are on the rise. In addition, the death in September 2007 (Labor Day Weekend) in Chloride, AZ of a young girl and the severe injuries suffered by her sister when they rode their OHV into an open, mine shaft provides a sad and unnecessary example of what can and is happening. Personal injury lawsuits and tort claims have been filed by involved parties.

Seeing the need to quickly and effectively fix these mine shafts before accidents happen, we have partnered together and initiated the *FAST!* Campaign, Fix A Shaft Today! We cannot do it alone; we need your help. The *FAST!* Campaign seeks to partner with mine claimants, landowners, mining industry, recreational user groups, and volunteers to work together to mitigate or remediate these unsafe mine features.

You, as a mining claimant, can help! Does your mining claim have an open adit, shaft, or other hazard? If so, we strongly urge you to contact your local BLM or Forest Service office to discuss methods to close or block access to it. If you are unsure how to address the hazard, we may be able to assist you with technical advice, guidance, and other kinds of support. Addressing the mine hazards on your claim can save lives and may help you avoid potential liabilities. It is not only a good thing to do; it is the right thing to do.

For additional information check out the BLM Abandoned Mine Lands Website: http://www.blm.gov/wo/st/en/prog/more/Abandoned_Mine_Lands.html.

You may also contact your local BLM or Forest Service office for more information. To find your local offices, you may visit www.blm.gov and www.fs.fed.us.

Remember, Stay Out and Stay Alive!

Attachment-1

FAST!
FIX A SHAFT TODAY! Campaign

RECENT ABANDONED MINE LANDS ACCIDENTS

2008

5/17/08 – O'Neals, CA: Three men died over the weekend while attempting to reopen an abandoned Gold Rush-era mine to dig for gold in rural Madera County. Twenty-five-year-old David Alan Alison and 23-year-old Matthew Terry Alison – both from Prather – and 26-year-old Brannon David Scharf of Madera were found dead Saturday inside the 20-foot-deep mine. Cal Fire officials say the men were using a gasoline-powered pump to drain underground water from the mine in O'Neals, about 20 miles south of Oakhurst. Autopsies confirmed all men died of carbon monoxide poisoning.

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1/20/08 – Phoenix, AZ: A 19-year man was fatally injured after falling into a 35-foot abandoned mine shaft while riding quads with a group of friends. The site is about four miles from Tonto National Forest.

2007

12/31/07 – Randsburg, CA: An 11-year-old boy from Visalia fell 30 feet into a mine shaft, but thanks to rescue personnel, he celebrated the New Year with his family. Crews said they used what is called the technical rope rescue system. One firefighter repelled 30 feet into the shaft and other firefighters lowered a basket and ropes. Then, crew members basically pulled the boy to safety. About 20 Kern County firefighters, California City firefighters, and Bureau of Land Management (BLM) officials helped in rescue efforts. The boy was taken to Antelope Valley Medical Center with a broken bone.

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9/3/07 – Chloride, AZ: A 13-year-old girl was fatally injured and her 10-year-old sister was seriously injured when the all-terrain vehicle (ATV) they were riding fell 125 feet down an abandoned mine shaft in northwest Arizona. The young girls were riding with their father, who was ahead of them on a motorcycle. Their father noticed they were missing and went back to find them, but to no avail. They were discovered the next day at the bottom of the mine shaft, and a rope rescue team descended the vertical mine shaft to reach them. This site is adjacent to a BLM trail that is not authorized for motor vehicle use.

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Attachment 2-1
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5/3/07: A 63-year-old man on a rock-hunting excursion with his wife was killed when his Jeep rolled off a narrow trail into an abandoned mining pit in Virginia City. The Storey County sheriff's office said that Alvin Ellwood Baldwin of Occidental, California, was trying to maneuver the vehicle on a narrow trail above the Loring Pit when he lost control and rolled 500 feet into the pit. Baldwin was ejected and pronounced dead at the scene. The man's wife had gotten out of the Jeep because the route was too treacherous.

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01/21/07 – Columbus, NM: A group of specially trained border patrol agents helped rescue a migrant who had fallen 50 feet into an old mine shaft. The man fell while walking along the border in a remote area. While the 26-year-old man suffered serious injuries, agents also were concerned because it was only 28 degrees during this early-morning rescue. Add to that, off and on freezing rain and snow made the situation even more dangerous according to agent Hitchcock. "If Border Patrol and BORSTAR were not notified sooner, there is a possibility that he could have died of hypothermia out there," Hitchcock said.

2006

TWO ACCIDENTS AT THE SAME SITE!

4/15/06 – Yermo, CA: Rescuers were called to an abandoned mine Friday afternoon, exactly one week after another man fell down the same shaft, dying from the fall.

4/9/06 – Yermo, CA: Kenneth "Rusty" Lasley, 41, of Vista, died of injuries sustained in a fall down an abandoned mine shaft Friday, the San Bernardino Coroner's office said. Lasley and his 7-year-old son, who was not identified, were exploring the Calico Mountains north of Yermo in an ATV when they came upon the abandoned mine in a remote, rugged area. Lasley ventured about 60 feet into a horizontal mine shaft, then fell into a vertical mine shaft, estimated as being 30 to 50 yards deep, according to San Bernardino Sheriff's Sgt. Doug Hubbard. The young boy rode his ATV to one of the few homes nearby, 2 or 3 miles from the mine shaft, to seek help and the homeowners called deputies. At 12:30 p.m., sheriff's deputies, county fire personnel, and two sheriff's helicopters were dispatched to the area where the mine shaft extends an estimated 100 feet into the mountain. Lasley's body was recovered at 8:30 p.m., 8 hours after the first call came in to the Sheriff's Department regarding the accident.

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03/12/06: A driver and passenger on a Suzuki Samurai off-highway vehicle (OHV), who traveled off-road in a designated "limited use area" on public lands in the California Desert's eastern Imperial County, fell down an abandoned vertical mineshaft, and spent 20 hours in the shaft before they were rescued. The driver suffered a possible broken arm; his passenger was unharmed. The accident apparently occurred Sunday; a search and rescue was initiated Sunday night when the two men failed to return to their camp as expected. The Bureau of Land Management received a call at 8:30 a.m. on Monday and a geologist and ranger responded. The driver and passenger were extracted, but BLM's El Centro Field Office rangers had to arrange a crane to lift out the Suzuki.

Attachment 2-2

BLM's Response to Draft Report

United States Department of the Interior

BUREAU OF LAND MANAGEMENT
Washington, D.C. 20240
http://www.blm.gov

APR 17 2009

In Reply Refer To:
1245 (830)

Memorandum

To: Assistant Inspector General for Audits, Inspections and Evaluations
Attention: Kimberly Elmore

Through: Richard T. Cardinale APR 20 2009
Acting Assistant Secretary – Land and Minerals Management

From: Mike Pool
Acting Director

Subject: Response to Draft Report, Mining Claimant Administration
(Report C-IN-MOA-0011-2008)

Thank you for the opportunity to review and comment on the Office of Inspector General's (OIG) draft report C-IN-MOA-0011-2008, "*Bureau of Land Management - Mining Claimant Administration.*" We are providing some general and technical comments.

The Bureau of Land Management (BLM) is committed to working with the mining claimant to the fullest extent of the existing laws and regulations. Similarly, the BLM is committed to seeking additional money to mitigate hazards relating to Abandoned Mine Land (AML) sites and has been successful in obtaining limited funding this year. We appreciate the perspective that there will be limited short-term efficiencies and significant costs related to the necessary changes to our processes and systems.

The report notes that BLM could "mitigate the most serious abandoned mine hazards". In one sense this phrase might refer to acute hazards such as falling hazards which might contribute to accidents involving the careless or unwary, but in another sense the term could mean abandoned formerly active mine sites associated with heavy metal contamination, radioactive contamination or acid mine drainage whose health effects are likely to be cumulative and longer term but equally hazardous and potentially to a larger population. Please define the characteristics of a "most serious abandoned mine hazard" so that BLM can focus its efforts and limited resources more efficiently and effectively.

Attachment 1 provides a summary of actions taken or planned by the BLM to comply with the recommendations including the responsible official and the target dates of implementation.

Attachment 2 contains technical comments on the draft report. We hope these comments will assist you in preparing the final report and we look forward to working with the OIG on future reports.

If you have any questions, please contact Mitchell Leverette, Chief, Division of Solid Minerals, at (202) 452-5088; Nancy Dean, Chief, Division of Environmental Quality and Protection, at (202) 452- 5060; or LaVanna Stevenson-Harris, BLM Audit Liaison Officer, at (202) 785-6580.

2 Attachments
1 – Response to the Office of Inspector General (OIG) Draft Report C-IN-MOA-0011-2008 (3 pp)
2 – Technical comments on the Office of Inspector General Draft Report (1 p)

Response to the Office of Inspector General (OIG) Draft Report C-IN-MOA-0011-2008, "*Bureau of Land Management - Mining Claimant Administration*"

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

Response: The BLM concurs with the recommendation and will work with the Office of the Solicitor to prepare an Instruction Memorandum (IM) that will address the BLM's authority and field office responsibility with regard to abandoned mine hazards on mining claims. The IM will address the proper procedure and protocol to identify the responsibility of the mining claimant to mitigate mining hazards on mining claims.

Target Date: September 30, 2009

Responsible Official: Bob Anderson, Acting Assistant Director, Minerals and Realty Management.

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.

Response: The BLM concurs in part with this recommendation.

The three principles listed in Attachment 3 entitled "*Areas to be Addressed by Instruction Memorandum*" are listed below:

1. How offices are to identify the precise location of mining claims and respective claimant.
2. How offices should notify claimants and work with them to ensure mitigation of hazards.
3. How field offices should proceed if claimants do not exist, cannot be found, or do not mitigate hazards after being notified.

Since field offices have limited staffs and budgets (see attachment 2), the BLM will use its Geographic Information Systems to identify mining claims that encompass the "most serious" abandoned mine hazards. Mining claims are typically ±20 acres. However, the claims are captured to the LR2000 and NILS databases as 160-acre (quarter-section) tracts. Abandoned mine hazard sites are captured as a single point. Therefore, after completing this large automation task, each claimant will be notified of abandoned mine hazard sites within the 160-acre tract including their claim(s).

As referenced on page 3 of the draft report, the BLM issued IM 2009-034 (FAST, Fix a Shaft Today) on November 28, 2008, which directed the field offices to notify mining claimants of potential hazards on these mining claims, request mining claimants take action to mitigate mining hazards, and offering BLM's assistance with the mitigation of the hazards. The BLM will continue to work with the States that have laws requiring claimants to protect the public and to encourage the reporting of hazards so that the states can take action.

Attachment 1-1

The BLM will issue an additional IM that will direct field offices to notify and require immediate action if the claimant has utilized or intends to utilize these abandoned mine hazard features in conjunction with work on the mining claim. Claimants are attracted to old workings because such workings (trenches, "glory holes" or vertical shafts, adits or horizontal tunnels, etc.) were developed to expose ore veins and these veins are often what the claimants are evaluating and are a stepping-off point to further development. If a claimant performs additional work on an existing abandoned mine hazard, we want that claimant to take all responsibility for that working, including prevention of accidents, bonding for reclamation and full reclamation under the 43 CFR § 3809, Surface Management regulations. Under some theories, the claimant takes responsibility when the claimant begins work on the abandoned mine hazard, but documentary proof is needed in the event of litigation and to alert the BLM to require the bond(s).

Accordingly, claimants will be required to accept responsibility in writing for hazards that they wish to use. If the claimant declines to accept responsibility or to voluntarily mitigate identified abandoned mine hazards on their claims, the IM will instruct the field offices that the hazards will be included in the Abandoned Mine Land (AML) program, if such is not already the case, and prioritized for mitigation including fencing and signing.

Due to the magnitude of this task, involving the identification and location of many tens of thousands of claims and claimants, due to the limitations of existing budgets, and due to personnel and other resource limitations, a target date of September 30 is submitted as a very aggressive assertion of the Bureau's deep concern over abandoned mine hazards.

Target Date: September 30, 2010

Responsible Official: Bob Anderson, Acting Assistant Director, Minerals and Realty Management.

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.

Response: The BLM concurs with the recommendation. The draft OIG report identified one best practice within BLM that it states has improved public safety with regard to abandoned mine hazards. BLM has cooperated extensively with Nevada to identify, inventory, and mitigate hazards on abandoned mine sites where claims may exist. A 1994 BLM and Nevada Division of Minerals Cooperative Agreement enabled this effort. The Agreement describes roles and responsibilities for dealing with abandoned mine hazards on BLM land in Nevada. Per the Agreement, BLM provides annual funding to Nevada for mitigation services. Funding for fiscal year 2008 totaled about $50,000. The agreement has resulted in the mitigation of 3,750 hazardous mine features since 1994.

We will share the success of the BLM's Nevada State Office with the other states and encourage them to consider the best practices and seek other innovative ways to address this issue. We will share the information and encourage dialogue on the quarterly mining conference calls and through the online Solid Minerals Forum.

Attachment 1-2

Target Date: September 30, 2009

Responsible Official: Bob Anderson, Acting Assistant Director, Minerals and Realty Management.

Attachment 1-3

Technical comments on the Office of Inspector General Draft Report
C-IN-MOA-0011-2008, "*Bureau of Land Management - Mining Claimant Administration*"

1. Mining claimants are required to provide the BLM with a description and a map of the mining claim location that gives sufficient information to find the claim corners on the ground. Corner monuments may degrade and disappear over time. A BLM employee must use the claimant's map to locate existing monuments in order to determine the claim's approximate boundaries. To create a precise location of mining claims would require a survey of each of BLM's approximately 400,000 mining claims, which is impractical and infeasible. However, approximate claim boundaries can be determined by employees who have been trained with basic field mapping skills. The information provided by the claimants and in our recordation system can and has provided enough information to identify claimants that would be in a general location.

2. The BLM's AML program is insufficiently funded to employ personnel and provide materials to mitigate over 42,000 mine hazards throughout the western United States. For the first time, the Fiscal Year 2009 Omnibus Budget Bill provided funding within the AML program to begin addressing priority sites. The BLM will continue to seek funds for the agency's budget for the physical hazard issues related to AML sites.

Attachment 2

Status of Recommendations

RECOMMENDATIONS	STATUS	ACTION REQUIRED
1- 3	Resolved; not implemented.	No further response to the Office of Inspector General is required. The recommendations will be referred to the Assistant Secretary for Policy, Management, and Budget for tracking of implementation.

Report Fraud, Waste, Abuse, and Mismanagement

Fraud, waste, and abuse in government concerns everyone: Office of Inspector General staff, Departmental employees, and the general public. We actively solicit allegations of any inefficient and wasteful practices, fraud, and abuse related to Departmental or Insular Area programs and operations. You can report allegations to us in several ways.

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