

OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

Annual Evaluation Summary Report

for the

Regulatory and Abandoned Mine Land Reclamation Programs

Administered by the State

of

ALABAMA

for

Evaluation Year 2005

July 1, 2004 to June 30, 2005

July 2005

EXECUTIVE SUMMARY

During the 2005 Evaluation Year (EY), the Office of Surface Mining (OSM), Birmingham Field Office (BFO), conducted oversight evaluations of the Alabama Surface Mining Commission (ASMC) and the Alabama Department of Industrial Relations (ADIR), the State coal mine regulatory and abandoned mine land (AML) program agencies, respectively. The oversight studies focused on the success of these agencies in meeting the Surface Mining Control and Reclamation Act's goals for environmental protection and prompt, effective reclamation of lands mined for coal. An evaluation (performance) plan for each agency was cooperatively developed by the BFO and the State to tailor the oversight activities to the unique conditions of each State program. The purpose for the oversight activities was to identify the need for and then provide financial, technical, and other program assistance to the State to strengthen its programs.

In support of OSM's national initiatives, studies were conducted in the areas of reclamation success, customer service, and offsite impacts.

- The BFO's review of eight bond release actions demonstrated that ASMC continues to follow all program requirements for releasing bonds. Phase III bond releases on 3,485 acres were approved by ASMC.
- The BFO's customer service review concentrated on ASMC's processing of citizen complaints and the appropriateness of actions taken in response to the citizen complaints. Overall, ASMC is both timely and responsive to citizen complaints. ASMC addresses the concerns voiced by the citizen and consistently conducts on-site investigations of the complaint. All citizen complaints for this timeframe concerned blasting. The actions taken by ASMC on all complaints reviewed appeared to be appropriate.
- The offsite impact study indicated that 87.2 percent of Alabama's inspectable units were free from offsite impacts. Forty-seven offsite impacts were identified on 219 inspectable units. There was a significant decrease in offsite impacts as compared to impacts recorded in EY 2004.

General oversight topic reviews were conducted on both the State regulatory and AML programs.

- The BFO reviewed the practices and procedures of ASMC's bond forfeiture reclamation program. ASMC deposits all proceeds from forfeited bonds into a State-managed account from which funds are dispersed to pay for forfeiture reclamation. File reviews indicated that the timing between receipt of forfeited bonds and the issuance of purchase orders for reclamation varied from four months to 27 months for the six permits reviewed. Five of the purchase orders were finalized within one year of receipt of the bonds. ASMC reclaims forfeited mine sites in the chronological order of bond receipt in an effort to reduce inflationary impacts on reclamation costs.
- A follow-up study concerning permit revisions revealed that ASMC took action to better differentiate between significant and insignificant revisions. This review also included a determination of whether permit findings for significant revisions had been addressed in writing as required. Of the ten significant revisions reviewed, four of the ten approvals addressed findings. All ten significant revisions did include the verbiage "All other terms

and conditions remain in effect.” After discussion with ASMC, it was recommended that either an additional findings document be produced for a significant revision or that, as appropriate, a written statement be added to the approval document to indicate that ASMC reviewed the revision and found that there were no changes to the findings contained in the original permit approval document. ASMC agreed that changes will be made to address findings and conditions as separate determinations in all significant revision documents.

- The BFO conducted a study to evaluate ASMC’s compliance with the requirements covering the issuance, modification, termination, and vacation of Notices of Violation and Cessation Orders. Eighteen of the 45 violations reviewed during this study were modified to extend the abatement date beyond 90 days. Although the files contained written or annotated requests for extension, the documented requests did not always appear to consistently contain clear and convincing proof of entitlement to an extension. The BFO recommended that ASMC implement procedures to assure that documentation of extensions and vacations are consistently completed, and that operators are advised of requirements for approval of extensions of abatement dates in excess of 90 days. During this review, ASMC implemented a process to improve documentation regarding the extension of abatement dates, and efforts are ongoing to inform operators of regulatory requirements for extensions.
- The BFO conducted a study that focused on five performance standards in joint oversight inspections with ASMC. (1) The review of the proper disposal of noncoal waste showed that all sites, but one, met the requirements. ASMC issued an enforcement action to require compliance. (2) Backfilling and grading to eliminate depressions was reviewed. Depressions of less than one-quarter acre in size were found on seven permits. These depressions did not appear to cause instability of the reclaimed land nor did the depressions cause problems with postmining land use. (3) The amount of cover over reclaimed coal pads/stockpiles was reviewed. Coal was exposed on the surface of two reclaimed coal mine waste sites. ASMC followed-up by denying bond release and requiring additional reclamation work on both sites. (4) ASMC’s method for determining slope measurements was evaluated. No slopes that appeared to be out of compliance with reclamation plans were found in sites reviewed. (5) Sealing of groundwater monitoring wells prior to final bond release was reviewed. Permits found to have areas of non-compliance regarding sealing of groundwater wells were addressed by ASMC through their permitting or enforcement process.
- The BFO conducted an on-the-ground review to document ADIR’s success in reclaiming AML problems. During this year, the BFO evaluated ADIR’s project construction. Pre-construction, during-construction, and post-construction phases of the AML construction program were reviewed. All required documentation for all phases of construction was available. All projects were constructed according to design plans, and maintenance performed was successful in alleviating any post-reclamation concerns.
- A study to evaluate the accuracy and completeness of Alabama Abandoned Mine Land Inventory System (AMLIS) entries was conducted by the BFO. In the majority of cases, information entered into AMLIS was complete and accurate. ADIR has procedures to ensure the accuracy of data entered into AMLIS and to certify the accuracy of AMLIS entries which meet the recommendations of the U.S. Department of the Interior Office of the Inspector General. To assure that all completed project costs are reported in AMLIS,

the BFO recommended that ADIR develop procedures to insure that the AML Division receives final project cost data from the Financial Division prior to project area description completion and AMLIS entry.

In addition to national initiative reviews and topical studies, OSM engaged in activities that provided assistance to ASMC or ADIR.

- The BFO reviewed the State's procedures for coordination with the U.S. Fish and Wildlife Service (USFWS) and determined that ASMC consults with the USFWS concerning permit and revision applications. The USFWS responds to consultation requests with detailed reports on each application. The BFO also facilitated discussions between the USFWS and ADIR to encourage the reclamation of a dangerous highwall and associated coal refuse area in the Cahaba National Wildlife Refuge.
- The BFO completed an assistance effort to characterize acid mine drainage (AMD) from abandoned coal mine sites in the Alabama coalfields. Through this assistance effort, the BFO provided ADIR with an inventory of abandoned mine sites that are producing AMD. ADIR is using this inventory to prioritize AMD sites for reclamation under the Appalachian Clean Streams Program. Ninety AML sites were studied during this effort with 25 sites identified as producing AMD. This data was also provided to other state and Federal agencies involved in water quality issues in Alabama.
- At ASMC's request, MCR conducted a technical review of the Jabcoal permit application, due to concerns over potential acid mine drainage problems. A report, identifying site specific information necessary to complete the permit application package and to make the findings required under the regulatory program, was provided to ASMC on April 20, 2005. MCR also reviewed and provided comments to ASMC on the subsidence control plan for a permitted underground mine in Jefferson County, Alabama. The long-term stability of the pillar size and the mine floor conditions were evaluated.

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LIST OF ACRONYMS USED IN THE REPORT

ACSP - Appalachian Clean Streams Program
ADIR - Alabama Department of Industrial Relations
AMD - Acid Mine Drainage
AML - Abandoned Mine Land
AMLIS - Abandoned Mine Land Inventory System
AOC - Approximate Original Contour
ASMC - Alabama Surface Mining Commission
BFO - Birmingham Field Office
CO - Cessation Order
EY - Evaluation Year
FTACO's - Failure-to-Abate Cessation Orders
IG - Office of Inspector General
MCR - Mid-Continent Regional Office
NEPA - National Environmental Policy Act
NOV - Notice of Violation
NPDES - National Pollutant and Discharge Elimination System
OSM - Office of Surface Mining
PADs - Problem Area Descriptions
Rules - Rules of the Alabama Surface Mining Commission
SMCRA - Surface Mining Control and Reclamation Act
USFWS - U.S. Fish and Wildlife Service

I. INTRODUCTION

The Surface Mining Control and Reclamation Act of 1977 (SMCRA) created the Office of Surface Mining (OSM) in the U.S. Department of the Interior. SMCRA provides authority to OSM to oversee the implementation of and provide Federal funding for State regulatory and abandoned mine land programs that have been approved by OSM as meeting the minimum standards specified by SMCRA. This report contains summary information regarding the Alabama Regulatory and Abandoned Mine Land (AML) Programs and the effectiveness of the Alabama programs in meeting the applicable purposes of SMCRA as specified in section 102. These programs are administered by the Alabama Surface Mining Commission (ASMC) and the Alabama Department of Industrial Relations (ADIR). This report covers the period of July 1, 2004, to June 30, 2005. Detailed background information and comprehensive reports for the program elements evaluated during the period are available for review and copying at OSM's Birmingham Field Office (BFO), 135 Gemini Circle, Suite 215, Homewood, AL 35209.

II. OVERVIEW OF THE ALABAMA COAL MINING INDUSTRY

The majority of Alabama's coal is ranked high-volatile A bituminous. Moderate amounts of low and medium-volatile A bituminous coal also exist. The coal is generally of good quality, and most beds have low percentages of sulfur and ash.

Alabama has four coalfields that are part of the great Appalachian coal basin - the Plateau field, the Warrior field, the Cahaba field, and the Coosa field. Alabama's total coal reserves have been estimated at 4.8 billion tons. A total of 3.1 billion tons is estimated as recoverable reserves (.73 billion ton is recoverable by underground mining, i.e., overburden of greater than 120 feet; and 2.4 billion tons are recoverable by present strip mining techniques, i.e., overburden less than 120 feet). A total of 9,700 square miles of the State is underlain by coal. Coal is the most abundant and important mineral resource in the Warrior, Cahaba, and Coosa fields. The great majority of coal mined today is in the Warrior field. The Plateau field, with a greater area than all the other coalfields combined, has attracted little commercial mining. The coal mined in Alabama is used principally for electric power generation. Other uses include methane gas recovery and coke production.

Lignite also occurs in the Coastal Plain of Alabama in irregularly-shaped deposits that may be discontinuous and highly variable in thickness. Deposits of lignite have been identified from Sumter and Choctaw Counties in the west to Barbour and Henry Counties in the east. Lignite has potential use as an industrial fuel, fuel for steam electric generating facilities, and for gasification. There is no current lignite mining in the State; however, some recent exploration of lignite deposits has occurred.

Coal is recovered by both surface and underground mining techniques. Surface mining in Alabama includes auger, contour, and area methods. Room and pillar and longwall methods are used for underground mining. Prior to 1986, surface mining predominated;

since that time, underground mines have accounted for the majority of the coal recovered. For calendar year 2004, 71.2 percent of the coal mined was by underground mining (tonnage recovered by underground mining – 15,463,529; tonnage recovered by surface mining – 6,249,390; see Table 1). Underground mining operations employed 2,861 people while surface mining operations employed 998 people as of March 31, 2005.

The Alabama coal industry has seen an increase in demand for coal since mid-2002 with demand sharply increasing in 2005. New demands for coal are fueled by higher natural gas prices, making coal more attractive to producers of electricity, as well as general improvements in the United States economy. Coal production has increased 15 percent over 2002 figures. Exporting coal to foreign countries has also impacted coal demand. This demand has had a predictable effect on coal prices. One coal company reported a 60 percent increase in coal prices over the same period last year. On June 30, 2005, ASMC reported 68 active coal mining operations in the state, including 17 new or reactivated operations. These 17 mines are surface mines; there were no newly-opened underground operations. Forty-nine surface mines, nine underground mines, seven preparation and loading facilities, and three coal fines recovery operations were actively producing coal in Alabama. Production reports show that bituminous coal was produced in 11 Alabama counties: Bibb, Cullman, Fayette, Franklin, Jackson, Jefferson, Marion, Shelby, Tuscaloosa, Walker, and Winston. Approximately 70 percent of the mine sites are located in Jefferson, Tuscaloosa, and Walker Counties.

III. OVERVIEW OF PUBLIC PARTICIPATION OPPORTUNITIES IN THE OVERSIGHT PROCESS AND THE STATE PROGRAMS

Opportunities for public participation occur at significant points in the Alabama regulatory program and involve the ability of the public:

- To request that areas be designated as unsuitable for mining;
- To notification by advertisement of permit application receipt;
- To review permit and revision applications;
- To contest the decision of the Commission on permit applications and revisions;
- To request an inspection of a mine site;
- To object to proposed bond releases;
- To initiate civil suits; and
- To petition to initiate rulemaking.

Monthly meetings of the Alabama Surface Mining Commission are open to the public.

Opportunities for public participation in the Alabama AML Program occur at the time of:

- Project selection;
- Grant application;
- Consultation under the National Environmental Policy Act (NEPA);
- Obtaining right of entry documents; and
- Securing amendments to the State Reclamation Plan.

On May 13, 2004, letters were sent to 15 Federal and State agencies and environmental organizations to alert the public of the opportunity for involvement in the BFO's oversight process. In the letter, recipients were asked to provide the BFO with any questions, issues or concerns that could be addressed in oversight studies. The Alabama Coal Association responded by letter on June 4, 2004, with comments on both the Alabama regulatory and abandoned mine land programs.

The BFO made a presentation about OSM, coal mining, and endangered species to 16 students and their teacher at the First Grade Class at Green Valley Elementary School in Hoover, Alabama. The presentation was made in conjunction with Earth Day 2005. In addition, the BFO manned a booth at the Samford University Earth Day celebration on April 21, 2005. Hundreds of Samford University students, faculty, and University officials toured the Earth Day exhibits. The BFO answered questions on Federal employment, OSM programs, acid mine drainage, and OSM technical initiatives, and provided hand-outs and other literature.

IV. MAJOR ACCOMPLISHMENTS/ISSUES/INNOVATIONS IN THE ALABAMA PROGRAM

Alabama Regulatory Program

ASMC continued to successfully administer its regulatory program during Evaluation Year (EY) 2005 to achieve the goals identified in section 102 of SMCRA. The BFO conducted regulatory program studies and engaged in assistance activities to characterize the success of the State's program and to provide assistance in specific areas.

During the evaluation year, ASMC issued 11 new permits and 11 permit renewals. One-hundred and seven permit revisions and one incidental boundary revision were approved. Sixteen permit transfers were submitted, and 12 approved. ASMC processed 23 notices of intent to explore. Two applications for Small Operator Assistance were received, and one was approved. A total of 3,002 inspections were conducted, including 2,374 complete inspections (and 255 inspections on exploration notices of intent to mine) and 373 partial inspections. There were 219 inspectable units, including active, inactive, and abandoned permits, as of June 30, 2005.

ASMC issued 122 Notices of Violation (NOV), representing 152 violations, and 23 Failure-to-Abate Cessation Orders (FTACO's) with a total of 29 violations (not including vacated violations). One Imminent Harm Cessation Order (CO) with one violation was issued.

During EY 2005, ASMC engaged in the reclamation of the largest bond forfeiture reclamation project since the inception of the regulatory program in 1982. The site consists of 558 acres to be reclaimed at a cost in excess of \$3.9 million. At the end of the evaluation period, this project was approximately two-thirds complete.

ASMC successfully negotiated and collected \$238,740 in civil penalty monies, a 139 percent increase over the prior evaluation period. This increase can be attributed to an increase in the citation of mining and related violations, successful negotiations with a current mining company for the payment of one major outstanding penalty (\$80,000), and the payment of outstanding penalties by an owner/controller of a prior permit seeking to obtain a new license.

Seventeen show cause or appeal cases were either closed or dismissed by the Legal Division during EY 2005. Ten of these cases resulted in the bonds being forfeited with ASMC being responsible for the reclamation, while two of the cases resulted in the surety assuming responsibility for the reclamation.

ASMC has continued to experience an increase in permitting activity that was noted during the previous evaluation year. A 67 percent increase in bonded acres over EY 2004 acres was associated with the increase in permitting activity. In addition, four permits, previously under temporary cessation for over ten years, were reactivated.

A review by the State Examiners of Public Accounts in the course of an Alabama Sunset Review commenced during the end of the evaluation period. The review by the State Examiners has not shown any deficiencies in the program. A legislative Sunset Hearing is tentatively scheduled for August 25, 2005.

A new database was developed that lists sediment basins on all permits with bonds remaining. This database contains the company name, permit number, sediment basin number, date certified, date recertified and the status of the basin, such as active, removed, permanent water impoundment. A query from this database is used each month by ASMC's inspection staff to ensure that all basins are being recertified in a timely manner. The database is updated by the inspection and enforcement staff and the engineering staff on a daily basis.

Alabama Abandoned Mine Land Program

ADIR successfully administered the AML Program during EY 2005 as outlined in the AML Reclamation Plan and policies and procedures established in the annual AML grant. The AML Program completed 17 projects (including 11 emergency projects) during the evaluation year. Pothole subsidence events were the predominant emergency project problem with eight of the 11 projects involving subsidence. Two emergency projects involved dangerous portals, while one involved a collapsed tipple site.

Reclamation achieved by non-emergency activities included 4950 linear feet of dangerous highwall, 23 acres of spoil, four portals, one vertical opening, five acres treated for acid mine drainage and 15 acres of dangerous spoils and embankments (1000 feet long). A total of 86 acres were affected by the reclamation. The data presented in Table 6 characterizes the status of AML reclamation in Alabama. The data is presented by problem type, showing reclaimed versus unreclaimed figures.

ADIR's reforestation practices were the subject of an article, entitled "Alabama's Reforestation of Abandoned Mine Lands", in the Spring 2005 issue of Alabama's Treasured Forests. ADIR has received a number of favorable responses regarding this article.

V. **SUCCESS IN ACHIEVING THE PURPOSES OF SMCRA AS DETERMINED BY MEASURING AND REPORTING END RESULTS**

To further the concept of reporting end results, the findings from performance reviews and public participation evaluations are being collected for a national perspective. These findings include descriptions of the number and extent of observed offsite impacts, the number of acres that have been mined and reclaimed and which meet the bond release requirements for the various phases of reclamation, and the effectiveness of customer service provided by the State. Individual topic reports are available in the BFO that provide additional details on how the following evaluations and measurements were conducted.

A. Offsite Impacts:

OSM annually evaluates and reports on the effectiveness of ASMC's regulatory program in protecting the environment and the public from offsite impacts resulting from surface coal mining and reclamation operations. Offsite impact data is gathered nationwide in order to portray the on-the-ground success of State programs in preventing or minimizing offsite impacts.

An offsite impact is defined as anything resulting from coal mining that negatively affects resources (people, land, water, structures). The impact must also be regulated or controlled by an applicable State program, must be coal mine related, and must occur outside the area authorized by the permit for conducting mining and reclamation activities. For EY 2005, offsite impact data was collected for the period of July 1, 2004, through June 30, 2005, during the BFO's field inspections and file reviews of State inspection reports, NOV actions, and bond releases.

The field and file reviews were conducted to determine if the State properly recorded offsite impacts for the inspectable units reviewed by the BFO. BFO inspections of these units occurred throughout the evaluation year, beginning in July 2004, and ending in June 2005. Of the eight inspections performed for the reclamation success study, no offsite impacts were identified. Seven offsite impacts were identified during the BFO's complete inspections. All of the seven offsite impacts were classified as previously existing; ASMC had previously taken enforcement action to address the observed concerns. Remediation and prevention were addressed for each of the seven offsite impacts identified by the BFO. The examination of the State NOV database and associated hard-copy State NOV's identified an additional 40 offsite impacts not associated with the BFO studies.

A total of 47 offsite impacts, with 47 effects on resources involving people, land and water, were identified on 28 of the 219 inspectable units. Effects on resources were determined to be major in one case, moderate in four cases, and minor in 42 cases. No offsite impacts were identified on bond forfeited permits (two inspections were conducted on the 40 bond forfeiture permits). More than half of the offsite impacts mentioned below were hydrology related impacts. The impacts were associated with uncontrolled runoff (11), failure to meet effluent limitations (11), failure to build or maintain sediment basins (8), conducting mining activities outside of the permitted and bonded area (3), failure to control airblast (3), failure to blast within peak particle velocity (2), failure to control flyrock (2), failure to provide bond on all disturbed acreage (2), other hydrology (2), failure of the operator to follow the operation's plan (1), failure to properly construct or maintain diversions (1), and failure to obtain a permit(1).

Twenty-five offsite impacts occurred on 18 inspectable units in EY 2003 (a nine-month evaluation period), 59 offsite impacts occurred on 34 inspectable units in 2004, and 47 offsite impacts occurred on 28 inspectable units in 2005. Alabama's inspectable units, as of June 30, 2005, totaled 219. Therefore, in EY 2005, there were 191 (87.2 percent) inspectable units free of offsite impacts.

During this review, it was noted that approximately 23 percent of the offsite impacts, 11 of the 47, occurred on permits from one company. Of these 11 offsite impacts, six were blasting related. The violations involving offsite impacts included airblast, flyrock, and peak particle velocity. ASMC has conducted numerous meetings with the certified blaster in charge, the blasting contractor and the mining company to discuss the violations, offsite impacts, and how to prevent blasting violations from occurring in the future. ASMC has required the company and blasting contractor to implement new procedures along with submitting new blasting plans on all permits where blasting violations occurred. ASMC continues to monitor blasting on these permits.

There has been a significant decrease in offsite impacts as compared to impacts recorded in EY 2004. The ASMC inspection staff routinely discusses potential field problems with mine site personnel to prevent offsite impacts and violations from occurring. The BFO has concluded from this review that the State is discovering and citing violations involving offsite impacts as they occur. No instances were noted in which the State inspector failed to take proper enforcement actions.

B. Reclamation Success:

ASMC's effectiveness in ensuring successful reclamation through compliance with performance standards relative to bond release was evaluated. A sample of bond releases reviewed by ASMC after July 1, 2004, was selected for this evaluation. The bond releases reviewed encompassed eight permitted sites. This sample included Phase I, II, and III bond releases. The field reviews occurred throughout the evaluation year. Four of the sites were reviewed prior to the ASMC's approval/denial of the bond release, three

were inspected the same day as ASMC's approval/denial, and one was inspected the day following ASMC's approval.

The following parameters were evaluated through field observations and/or review of the State bond release files:

- Phase I - Approximate Original Contour (AOC) achievement
- Phase II - Replacement of soil resources, vegetation stability
- Phase III - Postmining land uses, successful revegetation, surface water quality and quantity, restoration of groundwater recharge capacity, comparison of premining to postmining surface water quality and quantity restoration

Phase I

The BFO inspected and conducted permit file reviews on three increments requested for Phase I bond release, totaling 113 acres. These increments were field inspected for AOC achievement, toxic material coverage (where indicated), and the removal of temporary structures and equipment. When indicated, water discharge was tested, toxic material coverage was measured, and topsoil variance compliance was analyzed. A permit file review was conducted to compare the premining/postmining surface and groundwater data and compliance with National Pollutant and Discharge Elimination System (NPDES) requirements.

All three of these increments were determined to have met the requirements for Phase I bond release. These increments had achieved AOC, and toxic material had been covered when applicable. The permit files reflected a comparison of premining/postmining surface/groundwater quality, compliance records of NPDES monitoring points were on file, and documentation reflected that temporary structures and equipment had been removed. OSM agreed with ASMC's approval of these Phase I bond release requests.

Phase II

The BFO inspected and conducted permit file reviews on three Phase II increments representing 136 acres. Onsite inspections were conducted to determine the presence of topsoil or suitable soil replacement, to verify the establishment and presence of approved vegetation, to determine that vegetative success standards were met, and to assure that the site was stabilized. A determination was also made that lands were not contributing suspended solids off the permit and that removal of temporary ponds and diversions was completed. The permit files were reviewed to determine acres of basins approved as permanent water impoundments, the applicability of prime farmland productivity, and the presence of topsoil waivers.

All three increments in this sample met the requirements for a Phase II bond release. These increments reflected suitable soil replacement, adequate and approved species of vegetative cover, and site stabilization (no rills or gullies). All temporary ponds and diversions had been appropriately removed, remaining basins were approved as

permanent water impoundments, and reclamation did not contribute to suspended solids off the permit. OSM agreed with ASMC's determination of approval of these Phase II bond release requests.

Phase III

The BFO inspected and conducted permit file reviews on two increments, totaling 61 acres, for Phase III bond release. These sites were field inspected for the achievement of postmining land use and successful vegetative cover. The permit files were reviewed to determine the approved postmining land use, the monitoring of the quality of surface and groundwater, and compliance with surface water discharge effluent limits. The permit files were also reviewed to determine that the appropriate liability periods had been met, and that productivity data was adequate.

These two increments were determined to have met the requirements for a Phase III bond release. These increments had achieved postmining land use and vegetative success, and had met water quality standards. Permit files reflected that water leaving the minesite was comparable to or better than pre-mining conditions (where applicable) and that compliance with surface water discharge effluent limits had been verified. In all cases, the liability periods had been met. OSM agreed in both cases with ASMC's final determination of approval of the Phase III bond release requests.

The BFO determinations were consistent with ASMC's final actions on Phase I, II, and III bond releases on sites inspected in this sample. All acreage in this sample met the approved reclamation plan, postmining land use, and required release standards. Based upon this review, the BFO has determined that ASMC's decisions on approving bond release requests met the requirements of the approved Alabama surface mining program.

The table below shows figures for acres bonded, released, and forfeited from 1983 – 2004 and for 2005. The bond release and forfeiture figures for 2005 are also shown in Table 5.

Evaluation Year	Acres Bonded	Phase I Release Acres	Phase II Release Acres	Phase III Release Acres	Bond Forfeiture Acres
1983 – 2004	112,695	79,977	53,112	55,188	12,090
2005	4,288	1,104	484	3,485	1,407
TOTAL	116,983	81,081	53,596	58,673	13,497

C. Customer Service:

The processing of citizen complaints and the appropriateness of actions taken by ASMC in response to citizen complaints was selected for review.

The Rules of the Alabama Surface Mining Commission (Rules) at Subchapter 880-X-11B establish standards for the processing of citizen complaints and outline ASMC's procedures for receiving and acting on requests for inspection when there is reason to believe that certain violations, conditions, or practices exist. These procedures address the citizen's rights and the determination(s) and response to be made by ASMC. Procedures for processing blasting complaints are different from procedures for handling other types of citizen complaints and require that a copy of the complaint be forwarded to the surface mine operator. The surface mine operator shall attempt to resolve the problem and report the results of these efforts to ASMC.

The population for the citizen complaints review was those complaints received by ASMC during the period of July 1, 2003, through December 31, 2004. The review sample consisted of 19 complaints randomly selected from the population of 53 complaints. All 53 complaints in this time frame involved blasting. Two NOV's for blasting were issued by ASMC based upon the investigation of three of the citizen complaints during this time period.

Actions and Correspondence with the Citizen

Upon review of the blasting complaint files, it was determined that, in all cases, the citizen was advised of the opportunity for confidentiality status. When an inspection was conducted as a result of the information provided by the person to ASMC, the citizen was also provided with the opportunity to accompany the ASMC authorized representative during the inspection.

Inspection of the blasting records was conducted by ASMC for all of the complaints. Seismographs were set up by ASMC to investigate four citizen complaints (three complaints were for the same area). A complainant may request that a seismograph be placed at his/her residence. ASMC responds to the requests on a first come first serve basis and sets the priority according to the severity of the reported blast or the number of complaints in an area.

All 19 complainants were notified within the appropriate timeframes. Complainants were notified of ASMC findings and decisions concerning their complaints. Each letter provided to the complainant included a detailed description of the inspector's findings and a detailed explanation of action taken or why no enforcement action was taken. Rights to an informal conference or a formal appeal were outlined in the correspondence to the citizen. One informal conference was held.

Correspondence to Persons Alleged to be in Violation

Nine of the 19 blasting complaints reviewed involved complaints made about a specific operation. In all cases, complaint information was forwarded to the surface mine operator alleged to be in violation as required. The surface mine operator is required to

attempt to resolve the problem and report the results of these efforts to the ASMC in writing within 15 days. Nine operators responded to ASMC.

Four of the remaining 10 complainants requested that their complaint be handled confidentially. The ASMC does not send a copy of the complaint letter to companies when the complainant has requested that their name remain confidential, although ASMC does review the company's blasting records. The companies are also informed by the inspector of an anonymous complaint at the time the inspection is made, but, to protect the complainant's identity, a copy of the complaint letter is not given to the company.

The remaining six complaints did not identify a specific permit name or permit number. In these cases, ASMC does not send copies of the complaint letters to any operators; however, they do review the blasting records of companies located in the general area of the complaint to determine which operator(s) blasted during the time of the complaint. The companies reviewed are informed of the complaint.

The BFO review indicated that ASMC is both timely and responsive to citizen complaints. ASMC addresses the concerns voiced by the citizen and consistently conducts on-site investigations of the complaint. ASMC determines that the operator is meeting the minimum requirements regarding blasting, based on the review of the company's blasting records and/or ASMC seismograph readings. The actions taken by ASMC on all complaints reviewed appeared to be appropriate.

VI. OSM ASSISTANCE

OSM's oversight role has shifted to focus more on on-the-ground reclamation success and end results than on processes. OSM's changing role now emphasizes assisting the State in improving its regulatory and abandoned mine land programs by identifying program needs and offering financial, technical, and programmatic assistance as necessary to strengthen the State programs. The BFO routinely provides information to ADIR and ASMC regarding new policy guidelines and procedures as well as changes in existing guidelines and procedures.

ASMC Permitting Actions

On September 29, 2004, ASMC requested a technical review of the Jabcoal permit application due to concerns over potential acid mine drainage problems. The operator proposed to reprocess coal fines at the old Fabius Washer site in Jackson County, Alabama. The Mid-Continent Regional Office (MCR) conducted the review of the proposed permit. In January 2005, MCR staff members met with ASMC and the permit applicant, reviewed old permit files, and conducted a site visit to review on-the-ground conditions of the coal mine waste area. A report, identifying site specific information necessary to complete the permit application package and to make the findings required under the regulatory program, was provided to ASMC on April 20, 2005.

On January 14, 2005, ASMC requested assistance from the MCR in reviewing the subsidence control plan for the A2M, LLC, Pratt Mine. MCR analyzed the long-term stability of the basic pillar size and the mine floor conditions for the A2M, Pratt Mine, and determined that the mine floor appeared to be stable. A report detailing their review was provided to ASMC on February 15, 2005.

Coordination with the U.S. Fish and Wildlife Service

The BFO reviewed ASMC's procedures for coordinating with the U.S. Fish and Wildlife Service (USFWS). Under Alabama regulations, each coal mining permit must include pre-mining environmental information that will allow an evaluation of fish and wildlife resources. ASMC provides written notification to the USFWS of the receipt of permit and revision applications and solicits consultation with the agency. The USFWS responds with detailed comments on each permitting action which are considered by ASMC in its permit review process.

The BFO and the USFWS have been working together for several years on issues related to the Title V regulation of active coal mines and Title IV reclamation of abandoned coal mines. The BFO has supported increased communication and coordination between the USFWS Daphne office and ASMC for Title V activities and ADIR for Title IV projects. On June 8, 2004, the BFO received a letter from the USFWS Daphne office describing a number of coordination and research proposals concerning active and abandoned coal mining in Alabama

To assist the USFWS in its proposal to compare the location of listed species with the location of abandoned coal mines, the Daphne office was provided with a Geographic Information System layer of Alabama AML sites from the national Abandoned Mine Land Inventory System (AMLIS).

The BFO also facilitated discussions between ADIR and the USFWS to encourage the reclamation of a dangerous highwall and associated coal refuse area on the Cahaba National Wildlife Refuge. The BFO and the USFWS will continue to explore issues of mutual benefit.

Identification/Quantification of AML Acid Mine Drainage Sites

In EY 2005, the BFO completed a multi-year project to characterize acid mine drainage (AMD) from abandoned coal mine sites in the Alabama coalfields. The purpose of the project, which has been underway since 1998, was to develop current information on abandoned mine sites that are producing AMD. The assistance effort was undertaken in support of the State AML Program, administered by ADIR. The BFO screened 90 abandoned mine sites for the presence of AMD and conducted more extensive testing on sites where AMD was found. Tests were conducted under both high and low conditions. A report, summarizing the activities conducted under the assistance effort, was provided to ADIR on February 25, 2005. ADIR has also been receiving interim reports on the

progress made each year by the BFO and has been using this inventory to prioritize AMD sites for reclamation under the Appalachian Clean Streams Program (ACSP). Of the 90 AML sites studied during this effort, 25 were identified as producing AMD. This data was also provided to other state and Federal agencies involved in water quality issues in Alabama.

VII. GENERAL OVERSIGHT TOPIC REVIEWS

A. Program Evaluations of the State Regulatory Program

Bond Forfeiture Reclamation

This joint BFO/ASMC study involved a review of the practices and procedures of ASMC's bond forfeiture reclamation program and covered four aspects of the program:

- the components of the Bond Forfeiture Reclamation Projects Fund;
- the timing between the collection of bonds and initiation of the reclamation contract(s);
- ASMC's process for prioritizing bond forfeiture reclamation sites; and,
- ASMC's process for documenting that the bond forfeiture reclamation has satisfied all performance standards and that all reclamation has been completed that can be with the monies available.

The study determined that ASMC deposits all proceeds from forfeited bonds (cash, surety, letters-of-credit and certificates of deposit) into a State-managed account. Funds are disbursed from this account to pay for reclamation of the forfeited sites. Current State law requires that interest earned is deposited into the State General Fund.

The BFO found that the timing between receipt of the forfeited bonds and the issuing of the purchase order for the reclamation varied from a low of four months up to 27 months for the six permits reviewed. Five of the six purchase orders were finalized within one year of receipt of the bonds. ASMC was encouraged to continue the practice of completing reclamation as soon as possible after the forfeited bond has been collected.

Bonds on four of the six permits were forfeited and collected approximately a year after legal action was taken by ASMC to initiate forfeiture. In two instances, the legal process took almost seven years to conclude. ASMC was again encouraged to continue to take all measures available to advance the legal proceedings associated with bond forfeiture as quickly as possible to minimize the effect of inflation on bond amounts available.

The BFO determined that ASMC's process of reclaiming mine sites in the chronological order of bond receipt is a valid method for setting reclamation priorities. The State does consider moving a site up in priority based on site conditions (offsite impacts, emergency conditions, proximity to another site in bond forfeiture reclamation), but the rule-of-thumb is chronological order. At the end of EY 2005, 40 sites were awaiting bond forfeiture reclamation.

The BFO found that ASMC does not develop a formal close-out report for its bond forfeiture projects, but ASMC's response indicated that extensive informal discussions held before, during, and after reclamation and the presence of both a "formal" and "working" file for each project was sufficient documentation. A second phase of this study will be conducted in EY 2006, during which analysis of ASMC's site assessment and reclamation plan development, the development of contract specifications, and the evaluation of the success of reclamation is planned.

Permit Revisions

During EY 2002, the BFO conducted a study of ASMC's permit revision program. As a result of the study, ASMC took actions to better differentiate between significant and insignificant revisions. This follow-up review evaluated ASMC's performance in differentiating between permit revision types and reviewed permit findings associated with the sampled significant revisions to determine that permit findings had been addressed in writing as required.

Any application for a permit revision which proposes significant alteration in the permit operations are subject to the requirements of Rule 880-X-8K-.10. This requires that the Regulatory Authority provide written findings which are documented in the approval.

There were a total of 149 permit revisions issued during the period of October 1, 2002, to September 30, 2004. Of these revisions, 111 were classified as insignificant, 36 were classified as significant, and two were classified as incidental boundary revisions.

A sample of ten significant revisions and ten insignificant revisions was reviewed. All ten of the significant revisions were properly designated. Three of the insignificant revisions did not have a designation marked on the revision routing form; however, it was clear they were insignificant revisions and were processed accordingly. All revision designations were properly entered into the ASMC database system.

The BFO performed a file review of the ten significant revisions to determine if findings were addressed in writing. This review found that only four of the ten approvals for significant revisions addressed findings. All ten significant revisions, however, did include the verbiage "All other terms and conditions remain in effect."

Terms and conditions of a permit revision and written findings for revision approval are separate requirements. The statement "All other terms and conditions remain in effect" satisfies the requirements for permit terms and conditions in 880-X-8K-.11 of the Rules; however, this statement does not satisfy the requirements for written findings in Rule 880-X-8K-.10. It was recommended that either an additional findings document be produced for a significant revision or that, as appropriate, a written statement be added to the approval document to indicate that ASMC had reviewed the revision and had found that there were no changes to the previously made findings contained in the original

permit approval document. In response to this recommendation, ASMC indicated that changes will be made to address findings and conditions as separate determinations on all significant revision documents.

Notices of Violation and Cessation Orders

The issuance, modification, termination, and vacation of Notices of Violation and Cessation Orders were evaluated to determine ASMC's compliance with the requirements of Rule 880-X-11C.

ASMC issued 264 NOV's comprised of 345 violations during July 1, 2002 – June 30, 2004. Forty-two NOV's were randomly selected for review during this study. These notices of violation were in writing and were signed by the authorized representative who issued the NOV. Each NOV reviewed in this study had the following information included in the NOV document:

- The nature of the violation;
- The remedial action required;
- A reasonable time for abatement; and
- A reasonable description of the portion of the surface coal mining and reclamation operation to which it applied.

Each NOV was described in detail and included the ASMC regulation that the company failed to comply with. The NOV was either issued to a company representative on-site or was delivered via certified mail.

Eighteen of the 45 violations reviewed during this study were modified to extend the abatement date beyond 90 days. Although the files contained written or annotated requests for extensions, the documented requests did not always appear to consistently contain clear and convincing proof of entitlement to an extension. It was also unclear whether any appropriate interim measures for extended abatement dates were always considered.

Further review of the ASMC database indicated approximately 20 percent of the violations are extended beyond 90 days. This occurrence of extensions beyond 90 days appears to be excessive. A consistent application of the standards contained in the Rule would most likely substantially decrease the number of extensions exceeding 90 days.

Nine NOV's in this study were vacated. Vacation of enforcement actions is undertaken to remedy erroneous or improper enforcement actions. Such enforcement actions will usually be NOV's issued for violations later found not to have existed or to have been erroneously issued. An authorized representative of ASMC may modify, terminate, or vacate a CO or NOV for good cause or extend the time for abatement if the failure to abate was not caused by a lack of diligence on the part of the person to whom it was

issued. Reasons for the vacations of these NOV's were noted on the Vacation forms by the inspector.

Eight CO's were also written during this time period. All eight were Failure-to-Abate CO's, comprised of 15 total violations. Show Cause Orders had been issued for six of the eight FTACO's. The funds have been forfeited, and the money collected for these six. One FTACO has an outstanding Show Cause Order. The other FTACO was issued and subsequently vacated.

The issuance of these enforcement actions indicates a diligence to assure adherence to regulatory requirements and successful reclamation of coal mine sites. The enforcement process provided in the surface mining regulations is designed to assure that performance standards are being met and that coal is mined in an environmentally sound manner. To be effective in achieving this goal, standards must be consistently applied in an equitable manner, and decisions need to be documented. Ongoing extensions did not appear to foster "a good faith effort" from the companies involved to promptly abate violations, as demonstrated by the repeated extensions approved for some of the companies.

The BFO recommended that ASMC implement procedures to assure that documentation of justifications for extensions and vacations are consistently completed, and that operators are advised of requirements for approval of extensions of abatement dates. The total time for abatement under a notice of violation, including all extensions, should not exceed 90 days from the date of issuance. A permittee may show that it is not feasible to abate the violation within 90 calendar days due to one or more of the following circumstances: waiting for a permit renewal or other necessary approval of designs or plans, a valid judicial order precluding abatement within 90 days, an ongoing labor strike, and/or adverse weather conditions. If any of these conditions exist, the permittee may request an abatement period exceeding 90 days. It is incumbent upon the operators to supply information containing valid criteria for extensions. If this information is not supplied, ASMC has the responsibility of denying these lengthy extensions.

During this review, ASMC implemented a process to improve documentation regarding the justifications for extension of abatement dates, and efforts are ongoing to inform operators of regulatory requirements for extensions. These efforts to improve documentation and the notification of operators concerning the criteria necessary to obtain approval for abatement dates longer than 90 days will strengthen the regulatory program.

Special Emphasis

For EY 2005, the BFO conducted a study that placed an emphasis on specific performance standards in joint oversight inspections with ASMC. The BFO selected five Alabama performance standards for emphasis when developing this study. The sample population for this study was 38 oversight inspections and two Phase III bond release inspections conducted between July 1, 2004, and May 31, 2005. This study placed an

emphasis on the following five standards: the treatment of noncoal waste; backfilling and grading to eliminate depressions; the amount of cover over reclaimed coal pads/stockpiles; slope measurements; and, the sealing of groundwater monitoring wells prior to final bond release.

In each inspection, specific data for the five study topics, if applicable, were collected. The findings are as follows:

Treatment of Noncoal Waste as required by Rule 880-X-10C-.45

The rule states that noncoal wastes should be placed and stored in an area that protects surface and groundwater, prevents fire and the area of placement remains stable and suitable for reclamation and revegetation. Disposal of noncoal wastes should be in a designated disposal site in the permit area or in a State-approved solid waste disposal area.

Eighteen of the 40 permits reviewed had no noncoal wastes onsite. For the remaining 22 sites, it appeared that all but one permit handled noncoal wastes as required in ASMC regulations. On this permit, noncoal wastes were not confined or placed in an area to protect water resources or prevent fires. The wastes were not buried and were found in various areas around the mine. The wastes included coal, machinery, batteries, metal and garbage. During this joint oversight inspection, ASMC issued a Notice of Violation for the permittee's failure to properly handle noncoal wastes.

Backfilling and grading to eliminate depressions as required by Rule 880-X-10C-.53 (1) (b) and (8)

This rule states that backfilling and grading should eliminate all highwalls, spoil piles and depressions, except for small depressions that may be constructed to retain moisture, minimize erosion, create and enhance wildlife habitat, or assist revegetation. In some cases, small depressions are formed by differential settling over time on a reclaimed area. Although these depressions are not planned, ASMC may allow the retention of small depressions.

In 21 of 40 permits in the sample reclamation was not completed, had just started, or was not scheduled at the time of inspection. Of the 19 permits where reclamation was complete, the BFO found depressions of less than one-quarter acre in size on seven permits. These depressions served as wildlife habitat enhancement or were caused by differential settling occurring over time. These depressions did not appear to cause instability of the reclaimed land nor did the depressions cause problems in postmining land use on the permits inspected for this study.

Amount of Cover over Reclaimed Coal Pads/Stockpiles as required by Rule 880-X-10C-.53(6)

The rule states that exposed coal seams, acid- and toxic-forming materials, and combustible materials exposed, used, or produced during mining shall be adequately covered with nontoxic and noncombustible material or treated to control the impact on surface and groundwater. It is ASMC policy to require the permit operation plan to provide that any acid- and toxic-forming materials remaining onsite be excavated, then buried in the final pit and covered with four feet of nontoxic and noncombustible material. On two of the 40 permits inspected, the BFO found coal exposed on the surface of reclaimed coal mine waste sites.

One of the two permits with exposed coal was a permit reclaimed by a surety company. The coal mine waste area was final graded; however, a minimum cover of four feet of material over the coal mine waste was not utilized in various places. There was no documentation verifying four foot of cover material over the coal pad area. The cover in these areas appeared to be twelve inches or less. Following this inspection, ASMC denied the request for bond release on this increment and required the surety company to complete reclamation over the coal mine waste area.

The other permit with exposed coal on the coal pad was located on an incidental increment. The BFO found that the cover over the coal pad did not meet the required four feet of cover material. ASMC required the permittee to remove the coal from the coal pad area and to properly reclaim the increment.

Slope Measurements as required by Rule 880-X-8F-.09(2)(c)

The general requirement for reclamation plans indicates that the permit must have a plan for backfilling, soil stabilization, compacting and grading. In this section, the BFO concentrated on backfilling and grading and the use of slope measurements to determine adherence to the State approved reclamation plan.

Of the 40 permits inspected, 23 had areas that were backfilled and graded. Backfilling and grading appeared to be in compliance with each permit's reclamation plan. It was indicated to the BFO that slopes were visually assessed to verify compliance with the reclamation plan. As reclamation progresses on a permit, written documentation in inspection reports would prove helpful in tracking and verifying compliance with slope measurements required in the approved reclamation plan. The BFO did not find slopes that appeared to be out of compliance with reclamation plans on oversight inspections conducted for this study.

Sealing of Groundwater Monitoring Wells Prior to Final Bond Release as required by Rules 880-X-10C-.06 and 10C-.12 (7)

These rules state that, when groundwater wells are no longer needed for monitoring or for any other purpose as approved by ASMC, or unless the wells are approved for transfer, each well should be capped, sealed, backfilled, or managed properly as required by ASMC regulations. The wells should be sealed or backfilled before final release of

the permit bond or the permittee may transfer wells to another party for further use if approved by ASMC.

Two of the 40 inspections conducted for this study were Phase III bond release inspections. In both cases, groundwater wells were not located on or associated with the increment released. In many cases, groundwater wells are located off the bonded and permitted area. These wells which are located off of the permit will not be capped, sealed or backfilled until all increments receive final bond release. Based on the hydrologic reclamation plan, where monitoring is no longer needed, groundwater wells can be sealed, capped, backfilled or properly transferred when approved by ASMC.

During the course of this study, permits found to have areas of non-compliance were addressed by the ASMC through their permitting or enforcement process. Better documentation, by the ASMC, of steps taken in the reclamation process (i.e., cover over reclaimed coal pads and slope measurements) would aid in verifying compliance with regulations.

B. Program Evaluations of the State Abandoned Mine Land Program

Abandoned Mine Land Inventory System

In order to address the findings of an audit of the Abandoned Mine Land Inventory System conducted by the U.S. Department of the Interior Office of Inspector General (IG), OSM Field Offices must find that each State has a system in place to ensure that data entered into AMLIS is accurate. Each State must have a signed certificate on file describing the system that they have in place. OSM reviews a sample of the information entered into AMLIS during the year to verify that it matches the information maintained in hard copy records.

The data in AMLIS is utilized for a number of important purposes. ADIR uses this system for project planning purposes, including maintaining priority and feature data. ADIR also uses the system to determine the status of reclamation efforts in Alabama, including features reclaimed, location of AML problems, and the extent of AML problems that remains to be reclaimed. Feature and cost information contained in AMLIS is utilized by OSM to quantify the number of reclaimed AML sites in the coalfields versus the number of unreclaimed sites. This calculation is one of the measurements OSM uses under the Government Performance and Results Act to characterize how well the AML Program is working.

In order to verify that the information entered in AMLIS during the year matched the information maintained in hard copy, the BFO reviewed all Problem Area Descriptions (PADs) entered into AMLIS by ADIR as part of the grant closeout process. A total of 24 PADs and the corresponding AMLIS entries were reviewed. The review emphasized accuracy of features, costs, and latitude and longitude entries.

The feature and cost information shown on the PADs and entered into AMLIS agreed for the 24 PADs reviewed. However, only 18 PADs captured the entire project reclamation costs. Six of the PADs/AMLIS entries did not capture the entire project reclamation cost provided by ADIR's Financial Division. The costs furnished by the Financial Division differed from the costs reported on the PADs/AMLIS entries from \$143.00 to \$1677.00. Due to the timing of PAD completion and AMLIS entry, occasionally the Mining and Reclamation Division has not been provided with the entire/final completed project reclamation costs. This situation normally occurs due to post-construction maintenance cost being charged to a project. To assure that all completed project costs are reported in AMLIS, ADIR should develop procedures that insure that the AML Division receives final project cost data from the Financial Division prior to PAD completion and AMLIS entry.

In EY 2004 ADIR conducted a review of AMLIS entries to verify that the correct latitudes and longitudes for all AML sites were entered in AMLIS. This task was completed in EY 2005. ADIR researched and updated the latitudes and longitudes on all entries and entered the new location data. The review of the latitude and longitude AMLIS entries for the 24 PADs revealed that three of the PADs' latitudes and longitudes did not agree with the AML site locations.

In the majority of cases, information entered into AMLIS is complete and accurate. ADIR has procedures in place to verify the accuracy of AMLIS data entry. ADIR has a certification on file stating that they have a system in place that ensures the accuracy of data in AMLIS. ADIR checks and updates, as necessary, feature, cost, latitude and longitude information. These procedures meet the recommendations made by the IG to establish a quality control system that ensures that States, Tribes, and OSM, as applicable, review and certify the accuracy of data entered into AMLIS.

Project Construction

Each evaluation year, the BFO conducts an on-the-ground review to document ADIR's success in reclaiming AML problems. This year, the BFO evaluated ADIR's project construction program. The study involved the review of non-emergency projects in each of the following categories: (1) four pre-construction projects, (2) three during-construction projects, and (3) four post-construction projects. AML features reclaimed under these projects included dangerous highwalls and impoundments, portals, vertical openings, dangerous embankments, spoil piles, mine refuse, and acid mine drainage.

The pre-construction sample review involved those projects submitted to the BFO for issuance of authorizations to proceed during the study period. These requests include a description of the AML feature(s), the reclamation to be performed, costs, location, priority of the project, documentation of consultations with Federal, State, and local agencies, and public participation. Pre-construction reviews showed that all appropriate documentation was furnished by ADIR to the BFO in the four authorization to proceed requests. All projects were in compliance with NEPA requirements and met the

categorical exclusion standards as defined by NEPA. The field reviews verified that none of the projects would have a significant effect on the environment or a significant adverse effect on public health or safety. None of the projects reviewed had archeological or historic resources on or adjacent to areas to be reclaimed. All were high priority projects that addressed the protection of public health, safety, general welfare, and property from extreme danger or from adverse effects of past coal mining practices.

The during-construction review involved those AML projects that were under active construction during the study period. The reviews showed that all required permits, including NPDES stormwater permits and burn permits, were obtained in a timely manner. All projects used appropriate best management practices to control erosion and prevent offsite sedimentation. The field visits revealed that all erosion and sediment control devices were functioning properly at the time of the site visits. The projects were designed to eliminate the AML features using environmentally sound and cost effective/proven construction methods. The projects were being constructed according to the design plans and specifications.

The post-construction project sample was taken from projects completed during the study period. All projects were constructed according to ADIR's design plan and contract specifications. Grading, highwall backfill, and portal backfill on the projects showed no signs of slumping or other structural failures and appeared to be stable. The acid mine drainage remediation was successful on the two AMD remediation projects. AMD was eliminated for one of the projects and reduced on one of the projects. All erosion and sediment control devices were functioning properly. No significant erosion or off-site sedimentation was noted on any of the projects. All sites were well vegetated. All AML features proposed for reclamation were eliminated. Each project reviewed was reclaimed successfully guaranteeing long-term reclamation success.

Post-construction monitoring and maintenance was documented in the files. Post-construction maintenance was performed on two of the four completed projects. The project maintenance included erosion control and repair of drainage control devices. All areas disturbed by maintenance activities were revegetated. The site visits indicated that the maintenance performed was successful in alleviating any post-reclamation concerns.

The study concluded that ADIR achieves on-the-ground success. Long-term reclamation success is assured via ADIR's project planning, project construction, monitoring, and post-construction monitoring and maintenance.

C. Program Evaluations Carried Over into EY 2006 – State Regulatory Program

Particle Size on Topsoil Replacement

The BFO is conducting a study to determine if the procedures used by mine operators to substantiate particle size on topsoil replacement material met the specifications approved in the permit. Five site evaluations were conducted during EY 2005 and the data analyzed. Discussions with ASMC concerning the study were not concluded during the

evaluation year, so the study will be finalized in EY 2006. The MCR assisted the BFO with this review.

D. Assistance Activities Carried Over into EY 2006 – State AML Program

AMD Mitigation Techniques for Alabama

ADIR requested technical assistance on the AMD mitigation techniques used on four completed ACSP projects and on one project completed under the Watershed Cooperative Agreement Program to determine which techniques had remediated or reduced AMD problems, which techniques could be improved, and then to develop a list of techniques that could be most useful to State remediation efforts. MCR performed the review of this assistance request. Water quality, mapping, and project description data was provided to the MCR by ADIR and the BFO prior to the site visits. Site visits of the five projects were conducted in May 2004 with representatives from the MCR, ADIR, and the BFO. Water quality sampling was also conducted by the BFO in November 2004 to capture high flow conditions. A report, detailing MCR's findings and recommendations, will be completed in EY 2006.

APPENDIX A

TABULAR SUMMARY OF CORE DATA TO CHARACTERIZE THE PROGRAMS

The following tables present data pertinent to mining operations and State and Federal regulatory and abandoned mine lands activities within Alabama. They also summarize funding provided by OSM and Alabama staffing. Unless otherwise specified, the reporting period for the data contained in all tables is the same as the evaluation year. Additional data used by OSM in its evaluation of Alabama's performance is available for review in the evaluation files maintained by the Birmingham Field Office.

APPENDIX B

STATE COMMENTS ON THE REPORT