

OFFICE OF SURFACE MINING

Eighteenth Annual Evaluation Summary Report

for the

Regulatory and Abandoned Mine Land Reclamation Programs

Administered by the Commonwealth

of

KENTUCKY

for

Evaluation Year 2000

(October 1, 1999 to September 30, 2000)

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I. Introduction

The Surface Mining Control and Reclamation Act of 1977 (SMCRA) created the Office of Surface Mining (OSM) to oversee the implementation of and provide Federal funding for State regulatory programs that have been approved by OSM as meeting the minimum standards specified by SMCRA. This report contains summary information regarding the Kentucky program and the effectiveness of the Kentucky program in meeting the applicable purposes of SMCRA as specified in Section 102. This report covers the period of October 1, 1999 to September 30, 2000. Detailed background information and comprehensive reports for the program elements evaluated during the period are available for review and copying at the OSM Lexington Field Office (LFO).

This report follows the same format as in the past four years. The reporting format is a result of changes to OSM oversight policies implemented during 1996. Previously, OSM oversight procedures were very specific. The revised OSM Directive REG-8 oversight process enables OSM and states to take innovative, results-oriented evaluation approaches tailored to individual State programs and stakeholder interests and needs. During this Evaluation Year (EY), OSM and the States developed State-specific oversight plans or performance agreements to identify specific program areas and evaluation methodologies directed toward end-results measurement.

The oversight process provides two National measurements of end results--the number and degree of off-site impacts resulting from mining and the number of acres meeting all reclamation requirements as documented by different phases of bond release. The revised process allows OSM to focus oversight on those aspects of the State program that both OSM and the State determine to be most important. This oversight report, in response to the Government Performance and Results Act, corresponds to the Federal Fiscal Year (FY).

The following list of acronyms is used in this report:

ACSI	Appalachian Clean Streams Initiative
AMD	Acid Mine Drainage
A&E	Administration and Enforcement
AML	Abandoned Mine Land
AMLIS	Abandoned Mine Land Inventory System
AMLR	Abandoned Mine Land Reclamation
ARCC	Appalachian Regional Coordinating Center
CO	Cessation Order
DAML	Division of Abandoned Mine Lands
DSMRE	Department for Surface Mining Reclamation and Enforcement
EY	Evaluation Year
FY	Fiscal Year

KAR	Kentucky Administrative Regulation
KSNPC	Kentucky State Nature Preserves Commission
LFO	Lexington Field Office
MCCC	Martin County Coal Company
MOA	Memorandum of Agreement
NC	Non-Compliance
NOV	Notice of Violation
NREPC	Natural Resources and Environmental Protection Cabinet
OSM	Office of Surface Mining
SOAP	Small Operator Assistance Program
SMCRA	Surface Mining Control and Reclamation Act of 1977
SMIS	Surface Mining Information System
TDN	Ten-Day Notice

II. Overview of the Kentucky Coal Mining Industry

The Regulatory Authority responsible for the regulation of coal mining on Federal and non-Federal lands in Kentucky is the Department for Surface Mining Reclamation and Enforcement (DSMRE) headed by Commissioner Carl Campbell. Allen Luttrell is DSMRE's Deputy Commissioner. The three divisions and chiefs in DSMRE are as follows: the Division of Field Services, Mark Thompson, Director; the Division of Permits, Larry Adams, Director; and the Division of Abandoned Mine Lands (DAML), Steve Hohmann, Director. DSMRE has five regional offices located in Madisonville, Middlesboro, Prestonsburg, Pikeville, and London.

The Administration and Enforcement (A&E) Grant for FY 2000 was \$12,771,209 (Federal funds) and supports 386 positions. OSM funds 82 positions in DAML with a grant of \$17,168,631 for FY 2000. The Small Operator Assistance Program (SOAP) was awarded grant funds of \$541,342.50 for FY 2000.

There are four major coal associations in Kentucky. They are the Kentucky Coal Association, the Western Kentucky Coal Association, the Coal Operators and Associates, Inc., and the Small Coal Operators Advisory Council.

Kentucky has two citizen organizations that are very active in coal mining issues. They are Kentuckians for the Commonwealth, Earl Wilson, Chairperson; and the Kentucky Resources Council, Inc., Thomas FitzGerald, Director.

Kentucky is the third largest coal-producing state in the nation, with an annual production averaging over 160 million short tons during the 1990's. Kentucky was the nation's leading coal producer until 1988, holding that position for over a decade until the production from Wyoming and West Virginia exceeded that in Kentucky.

Nearly every type of coal mining and reclamation practice is found due to the differing coal bearing regions within the state and the availability of coal. Kentucky's coal reserve base, the fifth largest in the nation, consists entirely of bituminous coal. Two major coal provinces in Kentucky are separated by a large geologic uplift called the "Cincinnati Arch." The Eastern Kentucky Coal Field is part of the Appalachian Coal Province where underground, contour, and mountaintop mining occurs. The Western Kentucky Coal Field is part of the Interior Coal Province (Illinois Coal Basin) where area and underground mining occurs. The eight most western counties in Kentucky are underlain by the Jackson Purchase Lignite Coal Field. This potential resource has not been assessed, and no current lignite mining is occurring.

Since 1979, coal produced from underground mines has steadily increased over coal produced from surface mines.

Underground mines have accounted for approximately one-half the acreage permitted in the state. The high percentage of acreage is due to the state requirement that the shadow area overlying the underground work must be permitted. However, most underground mines actually disturbed very little surface acreage. A review of underground mines in Kentucky indicates there was an overall increase in size during the last four EYs as follows:

Underground Mines	EY 1997	EY 1998	EY 1999	EY 2000
Permitted Acreage				
Less than 20 acres	2%	2%	2%	2%
20-99 acres	12%	10%	8%	7%
100 acres or more	86%	88%	90%	91%
Underground Mine	EY 1997	EY 1998	EY 1999	EY 2000
Surface Disturbance Acreage				
Less than 20 acres	77%	74%	72%	71%
20-99 acres	18%	21%	22%	23%
100 acres or more	5%	5%	6%	6%

Surface mines and associated facilities (haul roads and preparation plants, etc.) account for the other half of acreage permitted in the state. A review of the permitted

acreage for surface mines and associated facilities indicates there was an overall minor increase in size during the last four EYs as follows:

Permitted Acreage	EY 1997	EY 1998	EY 1999	EY 2000
Less than 20 acres	17%	16%	14%	14%
20-99 acres	28%	28%	26%	25%
100 acres or more	55%	56%	60%	61%

III. Overview of the Public Participation Opportunities in the Oversight Process and the State Program

A team of LFO and DSMRE personnel was formed to develop oversight procedures and special studies for EY 2000. The EY 2000 Oversight Performance Agreement was finalized and signed by DSMRE on December 3, 1999.

LFO maintains a mailing list of concerned citizens, industry groups, environmental groups, and state agencies. The signed Oversight Performance Agreement was mailed to all parties on December 17, 1999. No comments were received that required modification of the final documents. During the EY, comments were received from the environmental community requesting additional oversight of blasting and hydrology issues. In response to these concerns, several related studies are planned during EY 2001.

When SMCRA was enacted, it created many avenues for citizens' involvement. Thus, individual citizens have a statutory role in practically every phase of the surface mining program, from permit issuance to bond release and everything in between. Since SMCRA has been on the books, coal field citizens have used those rights to help shape virtually all of the policies and programs that govern surface coal mining and reclamation in America.

IV. Major Accomplishments/Issues/Innovations in the Kentucky Program

A. Regulatory

DSMRE is maintaining an effective regulatory program for permitting, inspection, and enforcement of surface coal mining and reclamation operations.

The major accomplishments/innovations for the EY are as follows:

On March 10, 2000, Mr. Roy Mullins, Lick Creek, Kentucky, filed a Lands Unsuitable Petition in Kentucky. The petition alleges that surface coal mining and reclamation operations will affect lands within permit application number 898-4073 in which the surface coal mining operations would result in a substantial loss or reduction in the long-range availability of water supplies. On August 25, 2000, the Natural Resources and Environmental Protection Cabinet's (NREPC) Secretary James E. Bickford granted the petition to the extent that the petition area is unsuitable for a box-cut mining method of the Hagy coal bed. The decision also put some restrictions on future underground mining in the petition area.

The Kentucky Resources Council filed a Notice of Intent to sue OSM and DSMRE on July 7, 2000. At issue is the alleged failure of OSM and DSMRE to perform certain mandatory, non-discretionary duties required by Public Law 95-87. These include: 1) failure to take action to require Kentucky to amend its approved state program regarding stream buffer zone requirements; 2) failure to take action to prohibit the practice of "wing-dumping" excess spoil material; 3) failure to permit and bond all areas affected by discharge of water between the upper and lower sediment structure; 4) failure to permit and bond all areas affected by discharges of water from any excess spoil valley fill and any sedimentation pond relocated lower in the watershed and downstream of the fill; and 5) failure to set aside the provisions of Kentucky's House Bill 593 that authorizes a permittee to continue to mine on an expired permit or on a permit renewal that was not filed timely. On August 30, 2000, DSMRE responded to the Notice of Intent to sue, and on October 20, 2000, OSM responded to the Notice of Intent to sue.

The following is OSM's summary discussion of each of the five areas that are included in the Notice of Intent to sue:

1. Stream Buffer Zone Requirements

On June 12, 2000, Kathrine L. Henry, the Acting Director of OSM, notified Secretary James E. Bickford of NREPC, of actions affecting the stream buffer zone regulations. As stated in that letter, OSM intends to develop an interpretation addressing the placement of excess spoil in intermittent and perennial streams. Upon completion of this interpretation, OSM will issue notifications under 30 CFR Part 732 to all states with regulations that are less effective than this interpretation of the Federal stream buffer zone regulation. There are several pending actions that are related to stream buffer zones, including the

litigation in West Virginia and the programmatic environmental impact statement.

2. "Wing-Dumping"

Since receipt of the Notice of Intent, OSM and DSMRE have held several meetings to discuss the issue of "wing-dumping" of excess spoil. DSMRE has advised us that the most egregious abuse identified in OSM's oversight evaluation study entitled "An Evaluation of Approximate Original Contour and Post-Mining Land Use in Kentucky" has been stopped. On August 30, 2000, OSM received DSMRE's policy that limits "wing-dumping" and implements new procedures to improve the permitting and inspection process in the construction of excess spoil fills. These new procedures, when implemented, will improve the fill construction practices to better ensure long-term stability. OSM has conducted an extensive review of Federal regulations, preambles, and legislative history in an effort to determine, as precisely as possible, proper limits for controlled placement of excess spoil from the mine bench to the excess spoil fill area. OSM has completed its review of this issue and on October 11, 2000, sent a letter to DSMRE to the effect. Furthermore, OSM and DSMRE have agreed to include a joint special oversight study in the Evaluation Year 2001 Performance Agreement to ensure improved fill construction practices.

3. Permitting and Bonding of Areas Between the Upper and Lower Sedimentation Structures

On August 30, 2000, Secretary Bickford responded to the Notice of Intent to sue. In NREPC's response, they outlined how and when DSMRE would permit this conveyance of water and the conveyance of water between the toe of the valley fill and the lowest pond. On September 13, 2000, OSM concurred with DSMRE's position on these issues.

4. Permitting and Bonding Areas Between the Excess Spoil Valley Fill and the Lower Sedimentation Structures

See resolution of issue three.

5. Mining on an Expired Permit or Permit Renewal that was not Filed in a Timely Manner

On September 6, 2000, OSM published a Federal Register notice containing the final rule setting aside portions of House Bill 593. This action resolved issue five.

Kentucky continues to provide full regulatory and reclamation authority over coal mining and reclamation operations on Federal lands within the state. The cooperative agreement, approved on November 2, 1998,

designates NREPC as the authority to administer the program, to include permit processing and review, enforcement, bonding, and inspections. OSM retains authority for National Environmental Policy Act compliance, determining valid existing rights, mine plan (resources recovery) approval, and compatibility determinations within National forests.

During the EY, Kentucky settled the Black Mountain lands unsuitable petition. NREPC worked closely with the State legislature to obtain funding (approximately \$4.5 million) to purchase mineral and timber rights to the upper portion of Black Mountain.

The Appalachian Clean Streams Initiative (ACSI) was developed to encourage the clean-up of streams in Appalachia polluted by acid mine drainage (AMD). Kentucky continues to support this initiative.

DSMRE signed a partnership agreement with OSM, the Daniel Boone National Forest, and the Kentucky Council of Trout Unlimited. The partnership agreement expresses the intention of these parties to mitigate AMD problems and restore the fishery potential in the lower four miles of Rock Creek, a tributary to the Big South Fork of the Cumberland River in McCreary County, Kentucky. DSMRE has developed a plan for an initial project on Rock Creek. The impacts of this project were reviewed by the U.S. Forest Service in compliance with the National Environmental Protection Act.

An initial phase of this project was begun during EY 2000. This phase involved treatment of selected sections of AMD-impacted streams with limestone sand. Initial results are promising and more conclusive findings should be available in EY 2001.

Two other ACSI projects were ongoing in Western Kentucky during the EY. East Diamond Tipple is being reclaimed as a joint ACSI, Abandoned Mine Lands (AML), and Remining project. Pleasant View Mine Site Number 2 was completed during the EY. It reclaimed 250 acres, including Ketchup Lake, a 30-acre acid mine water pit.

DSMRE maintains an inventory of known AMD permits with related coal bed and watershed information. The inventory is updated as new information becomes available. The inventory is made available to both the Division of Permits' review staff, as well as the Division of Field Services' inspection staff. LFO, working jointly with DSMRE, has developed a basic Geographic Information System map of the inventoried sites.

The Kentucky Remining Team is continuing its efforts of promoting remining, evaluating potential remining sites, reducing or eliminating impediments to remining, and creating new incentives. The team members represent two Kentucky agencies, two Federal agencies, and the environmental community. The team has been working with several coal companies in both the Eastern and Western coal fields to encourage site-specific remining projects. The team is also continuing to work on remining options and incentives that might be used to encourage more participation. The remining project to reclaim the old East Diamond Tipple, near Madisonville, Kentucky, is actively removing coal and burying pre-SMCRA coal waste. This project will clean up 150 acres of land covered with three million cubic yards of pre-law coal refuse and slurry.

DSMRE continues to take an active role in two additional National OSM initiatives. DSMRE has members on the National Blasting Work Group and the Underground Mine Outcrop Barrier Work Group. DSMRE's participation in both initiatives provides important technical information on the mining practices and conditions in Kentucky. DSMRE and LFO have also been active participants with the Interstate Mining Compact Commission on the National remining and AMD initiatives. DSMRE and LFO are also active participants on the Environmental Impact Statement Team dealing with mountaintop removal mining and the resulting excess spoil fills.

DSMRE is actively promoting reforestation as a post-mining land use. Neighboring states have requested assistance from DSMRE in developing their reforestation initiatives. DSMRE is a partner in the National Reforestation Initiative.

DSMRE continues its efforts on the electronic permitting initiative. The pilot program for submitting permits electronically is ongoing. The Surface Mine Information System (SMIS) was made available to the public over the Internet during the EY.

OSM initiated the annual Excellence in Surface Coal Mining and Reclamation Awards in 1986 to give National recognition to the people and companies responsible for outstanding achievements in environmentally-sound surface mining and land reclamation. Since that time, numerous Kentucky surface coal mining operations have been recognized for their exemplary manner in implementing SMCRA requirements. During this EY, Kentucky companies received two National awards, in addition to the Director's award.

The National awards went to Stone Mining Company for reclaiming a large coal slurry impoundment into a county park that includes a 21-acre lake stocked with more than 10,000 fish and to Peabody Coal Company's Ken Surface Mine

for reclaiming 12 impoundments, using native and western grasses and planting over 200,000 trees and shrubs.

Peabody Coal Company's Western Kentucky Mine Operations won the OSM Director's award for 2000. The focus of the Director's award changes each year. This year, it focused on exemplary reforestation on reclaimed coal mine land. Peabody Coal Company's tree planting efforts at coal mine sites in Western Kentucky began voluntarily in 1948. Reforestation goals were established that resulted in large continuous tracks of forest and wildlife areas. Today, these reclaimed lands provide multiple benefits, including recreation, soil conservation, timber production, and wildlife conservation.

Issues outstanding at the end of the EY are as follows:

Written Findings

There is no official written findings document for major or minor revisions, transfers, sales, or assignments. The revision file in the Division of Permits has sufficient documentation supporting their decisions. However, these documents are scattered throughout the revision file. The Division of Permits is inconsistent with the written findings regulations in that the original permits require an official findings document. However, those same regulations require informal written findings for revision and successor permits.

Permit findings are identified as a National review topic for EY 2000. DSMRE is actively working with LFO to expand its written findings documentation. The review and assistance is ongoing and will extend into EY 2001.

Disposal of Underground Development Waste

It was discovered during a random oversight inspection that specific design requirements were not being required for permits involving disposal of underground development waste. The issue was determined to be programmatic. In a letter dated December 16, 1993, DSMRE advised LFO of its willingness to adopt changes to the regulation. The planned changes would be similar to those being proposed by Virginia. DSMRE further advised LFO of its intention to submit draft changes to LFO for informal review. The changes would include backfilling and grading, hollowfills, and disposal of refuse in both the surface and underground chapters of 405 Kentucky Administrative Regulation (KAR). Kentucky projected that a draft would be available around April 1, 1994. No further correspondence has been received.

Probable Hydrologic Consequences

LFO and DSMRE have been discussing outstanding hydrology issues concerning the prediction of AMD for surface and underground mines and ground and surface water monitoring. Joint special studies were initiated during EY 2000 and will continue during EY 2001. DSMRE is making progress in identifying and solving the hydrology issues.

Roads

The permitting of public roads has always been a difficult issue in Kentucky. The Federal permitting requirements are set forth in the definition of "affected area" insofar as it excludes roads, which are included within the definition of "surface coal mining operations." To apply these definitions, judgments must be made with regard to whether roads are maintained with public funds and whether there is substantial public use. LFO and DSMRE continue to discuss the issues related to permitting of public roads.

Mountaintop Removal Mining

During the EY, LFO completed the final oversight report entitled "An Evaluation of Approximate Original Contour and Post-Mining Land Use in Kentucky." DSMRE has developed draft policies on approximately original contour and on fill design and construction. OSM is reviewing the draft policies. Additional discussions will occur between DSMRE and LFO.

Surety and Bonding

Kentucky experienced problems with two surety companies that caused problems for coal companies trying to obtain surety bonds for its permits. On April 28, 2000, Kentucky stopped accepting new bonds written by Frontier Insurance Company (Frontier). This was because of financial conditions that raised doubt about the company's ability to continue as a viable business. In June 2000, Kentucky began accepting Frontier bonds only on permit renewals. Kentucky's Department of Insurance is considering allowing Frontier to issue new bonds on surface coal mining operations if Frontier agrees to 1) change premiums at the going rate for surety bonds, and 2) require collateral at some level for bonds. A review of SMIS in August 2000 found that 64 mining companies have Frontier bonds on 145,119 of 421,065 acres (35 percent) of the total permitted acreage in Kentucky. The total Frontier bonds in force was \$338,857,347 of \$768,897,695 (44 percent) of the total bonds in force in Kentucky. Also, on May 31, 2000, the U.S. Treasury terminated Frontier's Certificate of Authority that qualified them as an acceptable surety for issuing Federal bonds.

On April 12, 2000, the Kentucky Department of Insurance took control of Cumberland Surety Insurance Company (Cumberland Surety) in Lexington, Kentucky. Cumberland Surety is a small, privately-owned company that provides reclamation performance bonds for coal mining operations in Kentucky and several other states. The seizure was approved in Franklin Circuit Court. Cumberland Surety has not issued any new bonds in Kentucky since April 1999. Cumberland Surety is presently issuing bonds as an agent for Lyndon Property Insurance. A review of SMIS shows that Cumberland Surety has \$53,030,339 in outstanding surety bonds. This represents approximately seven percent of the surety bonding activities on surface coal mining operations in Kentucky.

1998 State Legislation

State regulation or law changes must be approved by OSM before implementation. Kentucky submitted a state law change for OSM review/approval that deals with expired mining permits. In the proposed Kentucky program amendment, a notice of non-compliance (Notice of Violation [NOV]) would be issued to a person who continues to mine on an expired permit. The NOV is considered abated if Kentucky receives a permit renewal application within 30 days of the NOV and subsequently renews the permit. The application for renewal triggered by the NOV is considered timely filed and the operator can continue mining under the terms of the expired permit until the permit renewal is issued. This provision was part of House Bill 593, enacted by the Kentucky Legislature on July 15, 1998.

On May 10, 2000, OSM disapproved this provision (65 FR 91, 29949) because Section 506(a) of SMCRA precludes surface coal mining operations without a valid permit. Further, Section 506(d)(3) of SMCRA requires that permit renewal applications be made 120 days prior to the permit expiration. To be no less effective than the Federal provisions, Kentucky must issue an Imminent Harm Cessation Order. OSM set aside this portion of House Bill 593 in a Federal Register notice (65 FR 173, 53909) dated September 6, 2000.

Coal Slurry Impoundment Failure Pollutes Miles of Eastern Kentucky Streams

On October 11, 2000, slurry from Martin County Coal Company's (MCCC) Big Branch coal waste impoundment broke into adjacent underground works, resulting in a release of over 250 million gallons of slurry into two watersheds of the Tug Fork of the Big Sandy River. The impoundment covers a surface area of approximately 72 acres and had a volume of 7,300 acre-feet. The separation between the mine works and the bottom of the impoundment is approximately 100 feet. MCCC operates a conveyor belt system through these

underground works that brings coal into its preparation plant.

The slurry ruptured seals in the underground mine works and exited through two separate portals. One portal drains into the Wolf Creek drainage and the other into the Coldwater Creek drainage. The discharge from the Wolf Creek portal is comprised mostly of black water. Discharge from the Coldwater portal is mostly slurry and is slower moving. Both streams are tributaries to the Tug Fork of the Big Sandy River. The Tug Fork is the boundary between portions of Kentucky and West Virginia. Cause of the failure has yet to be determined. This same impoundment failed in 1994, but on a much smaller scale.

No injuries were reported. However, on Coldwater Creek, seven residences are cut off from the main road. MCCC officials offered lodging, etc., to these residents and built alternate roads to two of the homes. Downstream municipal water systems in both Kentucky and West Virginia have been impacted. MCCC has made arrangements to keep all the impacted water systems on line. The black water has entered the Ohio River. The turbidity of the water in the downstream areas is decreasing.

MCCC is a wholly-owned subsidiary of A.T. Massey Coal Corporation (Massey).

A massive clean-up effort by MCCC is underway. MCCC and Massey are working with numerous State and Federal agencies to clean up the problem and develop an environmental restoration plan. Water levels in both drainages have lowered. Slurry is being pumped and mechanically removed from both creeks. Numerous disposal sites have been constructed. The company has completed construction of gabion weirs in both Coldwater and Wolf Creeks. These weirs are designed to slow the water flow such that the sediments can settle out. The material is then pumped or hauled to a disposal site.

This issue occurred after the end of EY 2000 and will be further discussed in next year's annual report. OSM has developed a National priority to promptly review all similar structures nationwide with extensive coordination with the Mine Safety and Health Administration and the states.

B. Abandoned Mine Land Reclamation (AMLR)

The Kentucky AMLR program is successful in achieving lasting and effective reclamation of mined lands. Construction grants continue to include high priority projects. Kentucky continues to consider high priority project selection criteria for AML emergency complaints referred to them by OSM. During the EY, Kentucky completed 26 AML projects (priorities one and two). During the EY, Kentucky submitted

33 new projects for authorization to proceed. Seven of the projects will provide a safe domestic water supply for 1,468 residences and a school and provide a transmission line to two adjacent communities at an estimated cost of \$4.5 million.

The current management of DAML continues to implement significant improvements in its program. DAML's continued support of the procedures implemented in EY 1996 and EY 1997 improved the internal control and support for change orders as recommended in the previous audit of the state AMLR program. Kentucky fully supports the direct access to the AML Inventory System (AMLIS) that allows them to electronically input AML problem data. The state has been directly updating the AMLIS since the fall of 1995.

DAML also administers the reclamation of Title V permits using forfeited reclamation bonds. DAML continues to improve its efforts in reclaiming forfeited permits. During EY 2000, DAML issued 17 new group contracts containing 53 forfeited permits with 953.31 acres. In addition, DAML continued reclamation activities on nine group contracts containing 76 permits with 972.52 acres from the previous EY. DAML completed reclamation on 13 group contracts containing 88 permits with 1007.55 acres and 27 small purchase contracts consisting of 27 permits with 45.1 acres. At the end of the EY, 12 group contracts containing 40 permits with 882.28 acres were still ongoing.

During this EY, OSM investigated 160 emergency complaints. OSM referred 77 complaints to the state when the site conditions did not meet Federal emergency criteria. OSM evaluated 83 complaints for declaration as Federal emergency projects. OSM declared 52 of these complaints as Federal emergency projects. OSM referred six to the state as serious, high priority AML problems that did not meet emergency criteria. These complaints are either being monitored or are currently under evaluation by the state. Out of the remaining complaints, eight are still under OSM review, and 17 were determined not to be related to coal mining.

To give well-earned, public recognition to those responsible for the nation's most outstanding achievements in AML reclamation, OSM began the Annual AML Reclamation Awards Program in 1992. The program publicly recognizes outstanding AML reclamation and publicizes exemplary reclamation techniques. During EY 2000, Kentucky's DAML won the Appalachian Regional Award and the National Award for the Pleasant View Mine Project near Madisonville, Kentucky.

Overall, the Kentucky program is effectively administered. DSMRE maintains a strong commitment to protect the environment and citizens of the coal fields while regulating and encouraging a viable coal industry. OSM expects to

maintain an excellent working relationship with DSMRE and looks forward to a continued commitment to improve the Kentucky program.

V. Success in Achieving the Purposes of SMCRA as Measured by the Number of Observed Off-Site Impacts and the Number of Acres Meeting the Performance Standards at the Time of Bond Release

A. Off-Site Impacts

During the EY, DSMRE issued 578 Non-Compliances (NC). These NCs cited 1,036 performance standards. The most frequently cited violations were general provisions/other. A breakdown of type of performance standards based on 50 category types cited by percent follows:

Percentage of Total Performance Standards Cited in EY 2000							
General Provision/Other	Sediment Control	Back-filling and Grading Contemp. Recl.	Water Quality	Water Monitoring	Access Roads	Blasting	Remaining 43 Categories
21.3	11.6	11.4	6.8	5.6	4.6	4.0	34.7

A total of 59 Cessation Orders (CO) was issued by DSMRE, (48 Failure-to-Abate COs, ten imminent harm COs, and one illegal mining CO).

For this EY, Kentucky issued 79 NCs and eight COs that contained off-site impacts. The 87 enforcement actions resulted in 96 performance standard violations with measurable off-site impacts. The determination of off-site impacts was based on DSMRE's documentation and LFO's review of all inspection reports associated with state enforcement actions. The review of the Inspector's Violation Statement prepared for the penalty assessment was the primary resource document.

The 87 enforcement actions involved 71 permits with off-site impacts. This represents approximately three percent of the minesites in Kentucky. One major incident occurred in Kentucky just after the end of EY 2000.

On October 11, 2000, slurry from MCCC's Big Branch coal waste impoundment broke into adjacent underground works, resulting in a release of over 250 million gallons of slurry into two watersheds of the Tug Fork of the Big Sandy River. The 72-acre slurry impoundment drained through the underground mine and exited into Wolf Creek and Coldwater Creek watersheds of Martin County, Kentucky. The slurry

material has impacted more than 75 miles of river system, including both the Tug Fork and Levisa Fork of the Big Sandy River, a tributary of the Ohio River. Several potable water and industrial intakes have been affected as a result of the spill. The water supplies of communities impacted by the spill include Kermit, Crum, Fort Gay, and Kenova in West Virginia, and Louisa and Inez in Kentucky. The Lawrence and Martin County schools in Kentucky were closed for a short period of time to conserve water. In addition, seven homes in the Coldwater Creek watershed were isolated as a result of the slurry blocking roads. The total short-term and/or long-term impacts have not been assessed.

As a result of this incident, on October 16, 2000, Governor Paul Patton declared a state of emergency in ten counties in Northeast Kentucky. The counties included Martin, Lawrence, Boyd, Carter, Greenup, Lewis, Fleming, Mason, Robertson, and Bracken. More details of the impacts will be reported in next year's annual report.

Of the 96 violations with off-site impacts, approximately 46 percent was surface water. The next major type of off-site impacts was encroachment into prohibited areas (29 percent). The third type of off-site impact was land instability (seven percent).

From the data collected, the total impacts assessed from coal mining operations for the EY included 12.8 miles of streams, 112 acres of land, two wells, and three homes. The majority of impacts were minor. However, as indicated, the largest impacts were associated with a few permits.

The findings for off-site impacts indicate that approximately 47 percent of the measured incidents involved land and 48 percent involved water. Also, 66 percent of the incidents were minor, 22 percent major, and 12 percent were moderate.

B. Bond Release

The goal of reclamation is to reclaim land mined by a surface coal mining operation to a stable condition, vegetated, non-polluting, and of equal or greater value than the pre-mining condition. To achieve the goals of reclamation, a system of phased bond releases has been implemented in Kentucky. To satisfy Phase I requirements in Kentucky, the reclaimed area must be backfilled, regraded, top-soiled, seeded, mulched, drainage-controlled, and a planting report submitted. Phase II requires the reclaimed area have established revegetation in accordance with the approved reclamation plan and meet the standards for revegetation success, except for productivity standards. Also, the reclaimed area must not be contributing suspended solids to stream flow or runoff outside the permit area. Phase III requires that the

reclaimed area must have successfully met all surface coal mining and reclamation standards in accordance with the approved reclamation plan, that the reclaimed land is capable of supporting the approved post-mining land use requirements, and that the applicable liability period has expired.

In Table 5, Annual State Mining and Reclamation Results, Kentucky reported that they granted bond release on 10,174.24 acres for Phase I reclamation, 4,330.75 acres for Phase II reclamation, and 17,561.75 acres for Phase III reclamation. OSM's review of these minesites through 129 joint inspections on Phase I and Phase III bond releases found that the State is meeting the requirements of its bond release program on permanent program permits.

VI. OSM Assistance

Table 9, Funds Granted to Kentucky by OSM, identified Federal funds awarded during FY 2000. The AML program received \$17,168,631, which is 100 percent of the total program cost. SOAP, which is also 100 percent Federally funded, received \$541,342.50. The A&E grant, which funds the Regulatory program, was for \$12,771,209. The Regulatory program is 50 percent Federally funded, except for the \$384,590 that Kentucky received to run the Federal Lands program. The Federal Lands program is 100 percent Federally funded and is included in the A&E grant.

OSM awarded additional funding to DSMRE through a Cooperative Agreement. The Cooperative Agreement, funded for \$8,000, allowed DSMRE to complete the geo-referencing of the Series 6 mylars and to include a polygon layer incorporating hollowfills. The funding for this Cooperative Agreement was provided by the U.S. Environmental Protection Agency's Region 4.

OSM is committed to provide adequate funding and technical assistance to the Kentucky program. Technical training courses are available to DSMRE upon request. Regional and LFO technical staff are also available to provide support to the Kentucky program.

VII. General Oversight Topic Reviews

During EY 2000, LFO completed 486 oversight-related inspections and 23 permit reviews. Of this total, 218 were random sample inspections and 56 were Phase III bond release inspections conducted jointly with DSMRE personnel. A total of 87 field inspections and 23 permit reviews resulted from special studies outlined in the EY 2000 Performance Agreement. The remaining 125 inspections were follow-up inspections completed by LFO resulting from the issuance of Ten-Day Notices (TDN), citizen complaints, and Federal enforcement actions.

LFO issued 52 TDNs during the EY. These 52 TDNs contained 82 potential performance standard violations. Forty-eight (48) TDNs were a direct result of written citizens' complaints, one was the result of a bond release inspection, one was the result of a follow-up to a previous oversight inspection, and two were the result of complete random oversight inspections. As of the close of the EY, 19 TDNs were pending a decision on appropriateness. Three of these pending TDNs were from a previous evaluation year. Two TDN responses were judged inappropriate during the EY. One involved elimination of a highwall and the other achieving the post-mining land use. DSMRE appealed both inappropriate decisions. A decision on the appeal is pending.

There were no Federal enforcement actions taken during the EY.

LFO conducted 79 oversight inspections on State AMLR projects in accordance with the EY 2000 Oversight Performance Agreement as follows:

- 7 pre-authorization inspections
- 8 pre-construction inspections
- 37 active construction inspections
- 16 final construction inspections
- 10 post-construction inspections
- 1 citizen complaint inspection concerning a State AML project

OSM identified a concern on four of the AML construction inspections. Three of the concerns were satisfactorily resolved with the State. All three were site-specific in nature, with no programmatic concerns identified. The fourth concern is still under review and will be resolved during EY 2001.

Several special oversight studies were initiated, but were not completed due to the complex nature of the studies and/or the workload of the staff involved. The studies include Blasting Oversight, Temporary Cessation, Durable Rock Fill, and Sediment Pond Design Standards. These studies are ongoing and the conclusions will be discussed in next year's annual report.

The following oversight studies were completed during the EY.

A. Phase I Bond Release Inspections

This was a study on 73 Phase I bond-released minesites that were inspected as part of OSM's random oversight inspection program. OSM inspections on these minesites were to determine if all applicable bond release standards were met at the time the Phase I Bond Release was granted by Kentucky. OSM found that Kentucky is meeting its

requirements for Phase I Bond Release on permanent program permits.

B. Phase III Bond Release Inspections

This was a study on 56 Phase III Bond Release applications that was reviewed during the EY. OSM inspections on these Phase III Bond Release applications were conducted jointly with the Kentucky inspector and the bond release specialist. OSM found that Kentucky is meeting its requirements for Phase III Bond Release on permanent program permits.

C. Bonding on Underground Mining Operations

This was a study on 15 permanent program permits issued on underground mining operations during the EY. The purpose of the study was to evaluate Kentucky's implementation of the July 1993 Bond Steering Committee's recommendations concerning bonding amounts on underground mining operations. OSM found that Kentucky is meeting its requirements for implementation of the recommendations agreed to in the July 1993 Reclamation Bonding Study report.

D. Inspection Frequency

For permitted coal minesites, Kentucky's inspection frequency was evaluated during the random sample inspections. This method involved a statistical measurement of inspection frequency using a random sample of inspectable units. The required frequency was based on 405 KAR 12:010, Section 3(5). This provision requires the State to conduct one complete and two partial inspections per quarter for all minesites, except Phase I bond release sites with a determination that the site is revegetated and stable or Phase II bond release sites. Those sites in the bond release process or in temporary cessation require the State to conduct one complete inspection per quarter.

Coal Mines and Facilities	Number of Complete Inspections	Number of Partial Inspections
Active	9,378	15,399
Inactive	646	350
Abandoned	94	69
TOTAL	10,118	15,818

Inspectable Unit Information

Total Number of Permits Requiring Inspections During this Period	2,247
Total Number of Permits Meeting Frequency	2,247
Percentage of Permits Meeting Frequency	100%

From the information provided, Kentucky's inspectors conducted 25,936 inspections and met inspection frequency on 100 percent of the inspectable units.

This evaluation indicates DSMRE's continuing commitment to meet the inspection frequency. This is the second year in a row that DSMRE's inspection staff made 100 percent of the required inspections. This is a significant accomplishment due to the large number of inspectable units and inspection staff.

E. Random Sample

OSM's new oversight format is moving from a very structured oversight approach to a more innovative approach, allowing fewer random sample inspections. The EY coincides with the Federal FY. During this EY, October 1, 1999 through September 30, 2000, LFO conducted 218 random complete inspections for a general assessment of Kentucky's program. The random sample was based on active and Phase I Bond Release surface and underground coal mining and reclamation operations in Kentucky. The purpose of these inspections was to evaluate the degree of industry compliance with the approved State program.

OSM found that 186 of the 218 (85 percent) minesites in Kentucky were in full compliance with all performance standard categories. On the other 32 sites, 79 violations were observed. The performance standards most often in non-compliance were the hydrologic balance, backfilling and grading, and permit administration. OSM inspectors evaluated the seriousness of violations on random complete inspections. The data for the 218 random inspections shows the impact of 68 percent of all the violations did not have an off-site impact, and 32 percent extend outside the permit area. In addition, 36 percent of the violations are minor, 60 percent have a moderate degree of impact, and 10 percent have a considerable degree of impact. In 77 of the 79 violations, the State took appropriate action, with one TDN pending and one TDN where the operator corrected the violation.

F. Acid Mine Drainage

On December 11, 1997, Kentucky issued a comprehensive AMD policy. Included in the policy was new procedures on inspection, permitting, bonding, and other program areas. Since that time, Kentucky has made significant progress on addressing AMD. As part of the policy requirements, Kentucky required permit revisions on minesites with active AMD discharges. At present, performance bonds have been increased by Kentucky on 15 minesites identified to require long-term treatment.

Even prior to the 1997 policy, Kentucky began efforts at developing an inventory of all known minesites that have or have had an AMD discharge. From that effort, Kentucky now maintains two inventories of AMD minesites. The first inventory is known as the "Historical Inventory." It contains all minesites that have or have had some sort of AMD discharge since primacy. This inventory presently includes 193 permits in varying status from active to bond forfeited. From the Historical Inventory, Kentucky developed a second inventory, known as the "Active Inventory." This inventory is on minesites that have or have had an active AMD discharge during the past 12 months. Minesites remain on this list until 12 months of water sampling shows that there is no longer an AMD discharge and the site is deemed to be a perpetual AMD producer. At present, there are 77 minesites on the Active Inventory. Both inventories are updated as new information becomes available.

During the EY, Kentucky and LFO conducted on-site inspections on 37 minesites. Kentucky inspected ten active minesites that have been identified by them as potentially requiring long-term treatment. LFO inspected the other 27 minesites that were listed on the Historical Inventory and were bond forfeited. The purpose of these inspections was to collect and analyze raw water discharges on these minesites. The results of these two efforts were then provided to the Appalachian Regional Coordinating Center (ARCC) as part of an overall regional approach for addressing AMD.

LFO also conducted 12 follow-up inspections on AMD sites removed from Kentucky's Active Inventory. The purpose of these inspections was to verify that these are no longer AMD producers. In addition, each site was located by a Geographic Positioning System unit. OSM found that each minesite was properly removed from the Active Inventory and had not had an AMD discharge during the previous 12-month period.

G. Final Oversight Report and Action Plan for Kentucky Mountaintop Mining Issues

On May 31, 2000, OSM released the final oversight report evaluating approximate original contour and post-mining land uses for mountaintop mining in Kentucky. The report finalizes the conclusions and recommendation included in a draft report released in September 1999. Also included in the report is an Action Plan jointly developed by OSM and the State which addresses all of the issues raised in the oversight report. In order to achieve consistency between the States, Kentucky has agreed to develop a guidance document to assist permit reviewers in making approximate original contour determinations. To address review findings, Kentucky is also revising data base systems, findings documents, and reviewing post-mining land uses. In addition, Kentucky has submitted a proposed program amendment relating to steep slope variance affecting surface or groundwater hydrology.

H. Roads Above Highwall Study

On February 9, 2000, LFO completed a report that evaluates the implementation of DSMRE's policy allowing construction and permanent retention of roads above the highwall in steep slope surface coal mining operations. LFO concludes that the application of this policy is contrary to provisions of the approved State program. The report details the impacts, safety, and environmental problems associated with the implementation of this policy.

The Kentucky 2000 General Assembly passed House Bill 792 that allows disturbance above the highwall of a steep slope operation for construction of a permanent road if certain conditions exist. On May 9, 2000, DSMRE submitted House Bill 792 to OSM as a proposed program amendment. As of the end of EY 2000, the program amendment is under review.

I. National Blasting Complaint Review

OSM initiated a National review of blasting complaints during the review period. LFO participated in the review by collecting information on the Kentucky blasting complaints filed with DSMRE from July 1, 1998 to June 30, 1999. During this period, there were 263 blasting complaints in Kentucky. LFO submitted the information to the OSM team responsible for the review. The National report has not been completed.

J. Blasting Lotus Spreadsheet Test

ARCC developed a Lotus spreadsheet for the evaluation of blasting records. LFO participated in the testing of a

Lotus spreadsheet. LFO submitted information on 20 mines to ARCC for use in evaluating the spreadsheet.

K. Drainage Control

The joint OSM/DSMRE Drainage Control Study Team conducted investigations into ten minesites that were alleged, via citizens' complaints, to have caused or significantly contributed to downstream flooding and/or flood-related adverse impacts to citizens, property, or the environment.

The study team found no corroborating evidence to support the allegation that surface mining operations had an adverse impact on the flooding potential for citizens and residences downstream when DSMRE's hydrologic policies and procedures were followed. The problems discovered in the course of this study appeared to result from a failure to follow set guidelines either in the permitting process or in the on ground reclamation process, or a combination of the two. In addition, some areas of the SEDCAD hydrology and flood potential modeling, as presently applied, were found to have possible weaknesses. Also, field personnel should more closely monitor the mining operations to ensure that approved drainage schemes are being followed and that proper erosion control devices are installed below spillways on steep slope areas.

Factual results garnered from the study indicate that the majority of the alleged downstream flooding problems were more a result of localized, extremely heavy precipitation events that led to flash flooding, which would have occurred with or without the mining operations being present.

L. Durable Rock Fill Stability

DSMRE and LFO initiated a special study in EY 1998 to assess the long-term stability of surface coal mine excess spoil disposal fills known as durable rock fills. The study included:

- Developing a fill inventory
- Review of permitting policies/procedures
- Inspection and enforcement procedures and policies
- Field review of current field construction techniques
- Review of past failures and current problem fills.

Joint field inspections were conducted in July 1999. Team recommendations were included in draft enforcement and

permitting procedures developed by DSMRE on August 30, 2000. Final implementation is pending further consensus building with industry and environmental interests on the issue of restricting the fill construction practice called "side-dumping" or "wing-dumping."

M. AML Change Orders

This study consisted of a review of change orders that resulted in increased project costs involving contracts on AML projects. The study determined that DAML's procedures are sufficient to satisfy future State AML program audits and provide adequate internal controls.

N. AML Post-Construction

This study consisted of a post-construction review of AML projects. Ten projects that had been completed for at least two growing seasons, but not more than five years, were visited in the field. The study found revegetation efforts successful, even with the serious drought conditions that prevailed in Kentucky during the 1998 and 1999 summer months. A visual estimate of the vegetative cover on the projects averaged 90 percent. Only very minor maintenance needs were identified on a few projects. In general, the State's reclamation of all of the projects is effective and accomplished long-term success in achieving the goals of the projects and the AML program.

Copies of individual topic reviews may be requested in writing to the following address:

Office of Surface Mining
Lexington Field Office
2675 Regency Road
Lexington, Kentucky 40503-2922

APPENDIX A

TABULAR SUMMARY OF CORE DATA TO CHARACTERIZE THE PROGRAM

These tables present data pertinent to mining operations and State and Federal regulatory activities within Kentucky. They also summarize funding provided by OSM and Kentucky staffing. Unless otherwise specified, the reporting period for the data contained in all tables is October 1, 1999 to September 30, 2000. Additional data used by OSM in its evaluation of Kentucky's performance is available for review in the evaluation files maintained by OSM's LFO.

TABLE 1

COAL PRODUCTION (Millions of short tons)			
Period	Surface mines	Underground mines	Total
Coal production ^A for entire State:			
Annual Period			
1998	56	92	149
1999	53	89	142
2000*	31	51	82

^A Coal production as reported in this table is the gross tonnage which includes coal that is sold, used, or transferred as reported to OSM by each mining company on form OSM-1 line 8(a). Gross tonnage does not provide for a moisture reduction. OSM verifies tonnage reported through routine auditing of mining companies. This production may vary from that reported by states or other sources due to varying methods of determining and reporting coal production.

* 2000 tonnage is for three quarters of calendar year, with only partial numbers for third quarter.

TABLE 2

INSPECTABLE UNITS													
As of September 30, 2000													
Coal mines and related facilities	Number and status of permits									Insp. Unit^D	Permitted acreage^A (hundreds of acres)		
	Active or temporarily inactive		Inactive		Abandoned		Totals		IP		PP	Total	
	IP	PP	Phase II bond release		IP	PP	IP	PP					
			IP	PP									
STATE and PRIVATE LANDS REGULATORY AUTHORITY: KENTUCKY													
Surface mines	822		82		14		0 918		918	4190		4190	
Underground mines	841		1 43		4		1 888		889	8656		8656	
Other facilities	396		3		2		0 401		401	538		538	
Subtotals	0	2,059	1	128	0	20	1	2,207	2,208	0	13384	13384	
FEDERAL LANDS REGULATORY AUTHORITY: KENTUCKY													
Surface mines	4		1				0 5		5	5		5	
Underground mines	25		5				0 30		30	3360		3,360	
Other facilities	2		2				0 4		4	8		8	
Subtotals	0	31	0	8	0	0	0	39	39	0	3,373	3,373	
ALL LANDS^B													
Surface mines	0	826	0	83	0	14	0	923	923	0	4,195	4,195	
Underground mines	0	866	1	48	0	4	1	918	919	0	12,016	12,016	
Other facilities	0	398	0	5	0	2	0	405	405	0	546	546	
Totals	0	2,090	1	136	0	20	1	2,246	2,247	0	16,757	16,757	
Average number of permits per inspectable unit (excluding exploration sites)													
Average number of acres per inspectable unit (excluding exploration sites)													
Number of exploration permits on State and private lands: _____ On Federal lands: _____ ^C													
Number of exploration notices on State and private lands: <u>319</u> On Federal lands: <u>0</u> ^C													
^{IP} : Initial regulatory program sites. ^{PP} : Permanent regulatory program sites. ^A When a unit is located on more than one type of land, includes only the acreage located on the indicated type of land. ^B Numbers of units may not equal the sum of the three preceding categories because a single inspectable unit may include lands in more than one of the preceding categories. ^C Includes only exploration activities regulated by the State pursuant to a cooperative agreement with OSM or by OSM pursuant to a Federal lands program. Excludes exploration regulated by the Bureau of Land Management. ^D Inspectable Units includes multiple permits that have been grouped together as one unit for inspection frequency purposes by some State programs.													

TABLE 3

**STATE PERMITTING ACTIVITY
As of September 30, 2000**

Type of application	Surface mines			Underground mines			Other facilities			Totals		
	App. Rec.	Issued	Acres	App. Rec.	Issued	Acres ^A	App. Rec.	Issued	Acres	App. Rec.	Issued	Acres
New permits	57	32	10,946	34	33	22,306	16	8	1,701	107	73	34,953
Renewals	33	47	40,611	68	129	320,175	19	58	11,908	120	234	372,694
Transfers, sales and assignments of permit rights	52	35		33	39		24	32		109	106	
Small operator assistance	34	22		12	14		1	0		47	36	
Exploration permits	0	0		0	0		0	0		0	0	
Exploration notices ^{B*}		228			0						228	
Revisions (exclusive of incidental boundary revisions)		147			105			23			275	
Incidental boundary revisions		62	14,103		72	34,914		19	204		153	49,221
Totals	176	573	65,660	147	392	377,395	60	140	13,813	383	1,105	456,868

OPTIONAL - Number of midterm permit reviews completed that are not reported as revisions _____

^A Includes only the number of acres of proposed surface disturbance.

^B State approval not required. Involves removal of less than 250 tons of coal and does not affect lands designated unsuitable for mining.

* Exploration notices not distinguished for surface/underground, etc.

TABLE 4

RESOURCES AFFECTED		People			Land			Water			Structures		
		minor	moderate	major	minor	moderate	major	minor	moderate	major	minor	moderate	major
TYPE OF IMPACT AND TOTAL NUMBER OF EACH TYPE	Blasting	0	0	2	0	0	3	0	0	1	0	0	0
	Land Stability	0	0	0	7	0	0	0	0	0	0	0	0
	Hydrology	0	0	2	1	1	0	30	5	7	0	0	0
	Encroachment	0	0	0	17	6	4	0	0	0	0	0	1
	Other	0	0	0	8	0	1	0	0	0	0	0	0
	Total	0	0	4	33	7	8	30	5	8	0	0	1
Total number of permits or mine sites.													
Permits <u>2,246</u> or Mine Sites _____													
Total number of permits or mine sites evaluated:													
Permits <u>71</u> or Mine Sites _____													
Total number of observations made to evaluate mine sites or permits for off-site impacts <u>96</u>													

Report the degree of impact under each resource that was affected by each type of impact. More than one resource may be affected by each type of impact. Therefore, the total number of impacts will likely be less than the total number of resources affected; i.e., the numbers under the resources columns will not necessarily add horizontally to equal the total number for each type of impact. To report the number of mine sites or permits use the same criteria used to determine an inspectable unit in the State. Number of observations is based upon the criteria developed between each State and OSM and may include observations by both the State and OSM.

Off Site Impacts On Bond Forfeiture Sites Not Available

TABLE 5

ANNUAL STATE MINING AND RECLAMATION RESULTS		
Bond release phase	Applicable performance standard	Acreage released during this evaluation period
Phase I	<ul style="list-style-type: none"> ● Approximate original contour restored ● Topsoil or approved alternative replaced 	10,174.24
Phase II	<ul style="list-style-type: none"> ● Surface stability ● Establishment of vegetation 	4,330.75
Phase III	<ul style="list-style-type: none"> ● Post-mining land use/productivity restored ● Successful permanent vegetation ● Groundwater recharge, quality and quantity restored ● Surface water quality and quantity restored 	17,561.51
	Bonded Acreage Status^A	Acres
	Total number of bonded acres at end of last review period (September 30, 1999) ^B	Not available
	Total number of bonded acres during this evaluation year	Not available
	Number of acres bonded during this evaluation year that are considered re-mining, if available	Not available
	Number of acres where bond was forfeited during this evaluation year (also report this acreage on Table 7)	983.67
^A	Bonded acreage is considered to approximate and represent the number of acres disturbed by surface coal mining and reclamation operations.	
^B	Bonded acres in this category are those that have not received a Phase III or other final bond release (State maintains jurisdiction).	

TABLE 6

STATE AND OSM ENFORCEMENT ACTIVITY						
Type of enforcement action taken	Actions taken by State		Actions taken by OSM on:			
	Number of actions	Number of violations	Sites where State is the primary regulatory authority		Sites where State is NOT the primary regulatory authority	
			Number of actions	Number of violations	Number of actions	Number of violations
Notice of violation issued	578	1,036	0			
Imminent harm cessation order issued	10	*	0			
Failure-to-abate cessation order	48	*	0			
Show cause order issued for pattern of violations	0	0				
Permit suspended ^A						
Permit revoked	22	61				
Individual civil penalty assessed	19	42				
Criminal penalty requested						
Criminal penalty assessed						
Injunction requested	31	72				
Injunction obtained	14	37				
Settlement agreement approved in lieu of further enforcement action	91	117				

^A Average duration of permit suspension: _____ (State) _____ (OSM)

TABLE 6A

CITIZEN COMPLAINTS		
Number of complaints	State	OSM
Action pending as of October 1, 1999	113	17
Complaints received in EY 2000	845	48
Complaints referred to State	—	48
Complaints investigated	839	48
Responses provided to complainant	689	48
Action pending as of September 30, 2000	152	17

TABLE 6B

STATE INSPECTION ACTIVITY								
Type of inspectable unit	Number of inspections conducted		Percent of required inspections conducted ^A		Inspectable units for which State met required inspection frequency			
	Complete inspections	Partial inspections	Complete inspections	Partial inspections	Complete inspections		All inspections	
COAL MINES AND FACILITIES					Number	%	Number	%
Active	9,378	15,399	100%	100%	2,090	100	2,090	100
Inactive	646	350	100%	100%	136	100	136	100
Abandoned	94	69	100%	100%	20	100	20	100
Totals	10,118	15,818	100%	100%	2,246	100	2,246	100
Exploration permits ^B	0							
Exploration notices ^B	2,226							
<p>^A Calculated on a site-specific basis. Excess complete inspections are considered partial inspections. For each site, any inspections in excess of the total number required by the approved program are not included.</p> <p>^B Includes all valid or unreclaimed notices and permits. No inspection frequency data are provided since SMCRA does not establish a minimum numerical inspection frequency for coal exploration activities.</p>								

TABLE 6C

STATE OF KENTUCKY ENFORCEMENT ACTIVITY		
PERIOD: October 1, 1999 - September 30, 2000		
Type of Enforcement Action	Number of Actions*	Number of Violations*
Notice of Violation	578	1,036
Failure-to-Abate Cessation Order	48	**
Imminent Harm Cessation Order	10	**

* Does not include those violations that were vacated.

** Information not available.

TABLE 6D

LANDS UNSUITABLE ACTIVITY STATE OF KENTUCKY			
PERIOD: October 1, 1999 - September 30, 2000			
Number of Petitions Received	1		
Number of Petitions Accepted	1		
Number of Petitions Rejected	0		
Number of Decisions Declaring Lands Unsuitable	1	Acreage Declared as Being Unsuitable	211
Number of Decisions Denying Lands Unsuitable	0	Acreage Denied as Being Unsuitable	0

TABLE 7

STATE BOND FORFEITURE ACTIVITY (Permanent Program Permits)		
Bond Forfeiture Reclamation Activity by SRA	Number of sites	Acres
Sites with bonds forfeited and collected that were unreclaimed as of September 30, <u>1999</u> (end of previous evaluation year) ^A	157	3,973.61
Sites with bonds forfeited and collected during Evaluation Year <u>FY 2000</u> (current year)	19	706.73
Sites with bonds forfeited and collected that were re-permitted during Evaluation Year <u>FY 2000</u> (current year)	1	1.65
Sites with bonds forfeited and collected that were reclaimed during Evaluation Year <u>FY 2000</u> (current year)	29	752.82
Sites with bonds forfeited and collected that were unreclaimed as of September 30, <u>2000</u> (end of current year) ^A	175	4676.83
Sites with bonds forfeited but uncollected as of September 30, <u>2000</u> (end of current year)	0	0
Surety/Other Reclamation (In Lieu of Forfeiture)		
Sites being reclaimed by surety/other party as of September 30, <u>1999</u> (end of previous evaluation year) ^B	2	511.3
Sites where surety/other party agreed to do reclamation during Evaluation Year <u>2000</u> (current year)	5	1,496.98
Sites being reclaimed by surety/other party that were re-permitted during Evaluation Year <u>2000</u> (current year)	2	707.9
Sites with reclamation completed by surety/other party during Evaluation Year <u>2000</u> (current year) ^C	5	1,330.27
Sites being reclaimed by surety/other party as of September 30, <u>2000</u> (current year) ^B	** 30	3,604.51
^A Includes data only for those forfeiture sites not fully reclaimed as of this date ^B Includes all sites where surety or other party has agreed to complete reclamation and site is not fully reclaimed as of this date ^C This number also is reported in Table 5 as Phase III bond release has been granted on these sites		

* This number is inflated. Kentucky groups numerous sites in a bid package for reclamation. Individual sites are not considered reclaimed until reclamation on the entire group is completed.

**Active sites with completed reclamation, but not completely released as yet.

TABLE 8

STATE STAFFING* (Full-time equivalents at end of evaluation year)	
Function	EY 2000
Regulatory Program	
Permit review	83
Inspection	196
Other (administrative, fiscal, personnel, etc.)	29
TOTAL	308
AML Program	74

* Numbers represent DSMRE staffing only and do not include Office of Legal Services and Hearing and Appeals staff funded through the A&E grant.

TABLE 9

FUNDS GRANTED TO KENTUCKY BY OSM (Millions of dollars) EY 2000		
Type of Grant	Federal Funds Awarded	Federal Funding as a Percentage of Total Program Costs
Administration and enforcement	12.38	50
Federal lands	.38	100
Abandoned mine lands	17.60	100
Small operator assistance	.50	100
Totals	30.86	

APPENDIX B

STATE COMMENTS ON THE REPORT

JAMES E. BICKFORD
SECRETARY



PAUL E. PATTON
GOVERNOR

COMMONWEALTH OF KENTUCKY
NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET
DEPARTMENT FOR SURFACE MINING RECLAMATION & ENFORCEMENT
FRANKFORT, KENTUCKY 40601
CARL E. CAMPBELL
COMMISSIONER

November 30, 2000

OSM LEXINGTON

DEC 01 2000

FIELD OFFICE

Mr. William J. Kovacic, Field Office Director
Office of Surface Mining
2675 Regency Road
Lexington, Kentucky 40503-2922

RE: Draft OSM EY 2000 Annual Report

Dear Mr. Kovacic:

Reference is made to your correspondence of November 14, 2000 wherein you conveyed for our review the draft "Evaluation Year 2000 Annual Report on the Kentucky Permanent Regulatory and Abandoned Mine Land Programs" for the period October 1, 1999 through September 30, 2000. Various personnel within my agency have completed a review of the draft document and offer the following comments and observations.

1. Page 3, first paragraph, and 9th line: We suggest that the word "removal" be eliminated from this sentence. Its use suggests that other than contour and underground mining, the only other form of surface mining activity that occurs in eastern Kentucky is Mountaintop Removal operations. In accordance with the ongoing Mountaintop Mining and Valley fill Environmental Impact Statement, let's call this activity "Mountaintop Mining".
2. Page 5, -second paragraph, 2nd sentence: We suggest that this sentence be modified to read "At issue is the alleged failure of OSM and DSMRE to perform..." As currently written, this statement implies that OSM and the DSMRE have prematurely acknowledged failure to perform all the duties enumerated in the Mr. FitzGerald's Notice of Intent (NOI).
3. Page 9, Written Findings Issue: Personnel in the Division of Permits indicate that, as written, the draft report fails to properly recognize the degree of effort expended by that agency in working with OSM, and in developing a revised "written findings" document that will satisfy the needs of both agencies.
4. Page 10, Mountaintop Removal Mining issue: The language in this section indicates that DSMRE and OSM are still discussing AOC and "fill design and construction policies". The DSMRE, through outreach, has already provided written draft policy on both these issues to OSM and the Industry.



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Draft OSM EY 2000 Annual Report
DSMRE Comments
November 30, 2000
Page Two

5. Page 10, Surety and Bonding issue: The draft fails to recognize that the new criteria that would allow Frontier to once again issue bonds on new permits was set by the KY Department of Issuance, not the DSMRE.
6. Several people felt the inclusion of the Martin County slurry impoundment incident (which you recognized as occurring after the EY 2000 period) in a report that clearly states it covers the period of October 1, 1999 through September 30, 2000 as inappropriate. This issue should best be left for next year's annual report.
7. We observed a serious problem with the information conveyed in Table 8 relative to the state staffing numbers. Personnel from this agency have been communicating with individuals in your office to quickly address this issue.

As always, we greatly appreciate the opportunity to review and provide comment on this report. Please let me know if you have any questions or if we can be of further assistance in this matter.

Sincerely,


Carl E. Campbell
Commissioner

APPENDIX C

PERMITTEES ISSUED NON-COMPLIANCES BY DSMRE
(Listed by Descending Number of Non-Compliances)

Permittee	# NC's	Violations	Permits in Violation	Total Permits	Permitted Acres	Disturbed Acres
BRANHAM & BAKER COAL COMPANY INC	29	44	15	68	50,993.8	9,442.88
NALLY & HAMILTON ENTERPRISES INC	24	42	11	29	17,314.11	9,370.88
ADDINGTON MINING INC	22	29	15	66	24,307.83	13,389.02
GOLDEN OAK MINING COMPANY	21	37	15	28	26,247.03	3,813.66
PREMIER ELKHORN COAL COMPANY	18	21	7	37	40,866	5,356.83
LESLIE RESOURCES INC	17	30	9	51	27,669.73	15,806.54
SIDNEY COAL COMPANY INC	17	24	7	39	63,983.11	787.8
SUNNY RIDGE MINING COMPANY INC	17	30	6	26	9,992.8	4,049.16
DIAMOND MAY COAL COMPANY	15	22	7	19	13,091.15	1,859.11
MARTIN COUNTY COAL CORPORATION	14	32	8	31	27,863.24	8,270.46
HARLAN RECLAMATION SERVICES LLC	12	17	5	11	25,949.5	1,450.73
LODESTAR ENERGY INC	12	17	8	54	29,546.48	7,913.93
CONSOL OF KENTUCKY INC	10	14	8	47	49,620.55	4,701.92
ROADSIDE PROCESSING INC	9	18	2	2	145.15	145.15
CHEYENNE RESOURCES INC	8	17	3	4	1,012.74	646.5
N A L R COAL CORPORATION	8	22	5	6	898.84	517.35
FRONTIER MINING COMPANY INC	7	16	2	2	1,719.9	748
BERKELEY ENERGY CORPORATION	6	8	2	16	6,367.05	288.74
HANSCO ENERGY CORPORATION	6	9	4	6	1,467.14	1,157.46
MCCOY ELKHORN COAL CORPORATION	6	6	3	26	25,894.74	659.6
MILLER BROS COAL INC	6	8	6	8	3,590.22	2,183.85
BEECH CREEK ENERGY INC	5	11	3	4	286.75	96.65
CLINTWOOD ELKHORN MINING COMPANY	5	6	3	37	34,940.31	1,442.96
CZAR COAL CORPORATION	5	5	4	33	18,293.08	2,000
IKERD-BANDY CO INC	5	6	4	26	10,666.72	5,217.52
KENTUCKY MAY COAL COMPANY INC	5	9	3	37	20,081.7	2,045.59
KNOTT COUNTY MINING COMPANY	5	7	2	7	9,663.2	255
LOCUST GROVE INC	5	10	2	10	5,204.59	2,815.28
M & G COAL SALES INC	5	10	2	3	361.01	116.36
TERRY GLENN COAL COMPANY	5	6	4	4	886.8	67.26
B R C COAL COMPANY INCORPORATED	4	5	2	2	743.59	373
BBQ RESOURCES INC	4	16	1	1	160.75	79
MAJESTIC COLLIERIES COMPANY	4	5	1	12	2,411.9	339.62
MANALAPAN MINING COMPANY INC	4	10	3	17	25,197.67	9,386.96
MCCOY COAL COMPANY	4	8	1	1	1,359.77	900
MOTTS BRANCH COAL INC	4	5	3	12	7,100.73	1,263.22
ADDINGTON INC	3	3	2	5	4,164.84	3,066.84
AL-KEN LLC	3	11	1	1	288.32	170
APPOLO FUELS INC	3	6	3	32	14,383.54	2,341.01
BDCC HOLDING COMPANY INC	3	4	3	23	29,635.72	1,130.16
C C & J COAL COMPANY INC	3	9	1	1	651.03	4.07
CARBON TECH FUELS INC	3	7	1	1	154.33	7.5
H B & S COAL COMPANY INC	3	9	2	2	249.92	186.8
KENTUCKY PROCESSING COMPANY	3	10	3	3	430.8	395.75
LANHAM MINING COMPANY INC	3	3	2	2	725.7	472.5
LEECO INC	3	4	2	11	21,934.45	374.94
NEW RIDGE MINING COMPANY	3	9	3	12	4,707.23	349.8
NO 1 CONTRACTOR INC	3	5	1	1	115.29	8

Permittee	# NC's	Violations	Permits in Violation	Total Permits	Permitted Acres	Disturbed Acres
REDBONE COAL COMPANY INC	3	3	2	7	4,707.47	1,501.6
RICHARDSON FUEL INC	3	5	3	8	3,753.8	594
SAYLOR BROTHERS ENTERPRISES INC	3	8	2	2	867.62	37.92
THE ELK HORN COAL CORPORATION	3	6	3	8	7,769.95	327.25
WASH RIDGE COAL CO INC	3	4	2	12	3,036.33	1,082.3
WHYMORE COAL COMPANY INC	3	11	2	7	803.6	288.48
A & P MINING COMPANY INC	2	3	2			
ALLEY-CASSETTY COAL CO INC	2	6	2	4	1,637.9	678
AMERICAN COAL CORPORATION	2	5	2	5	2,259.7	760.3
BEECH FORK PROCESSING INC	2	2	2	20	14,849.34	983.47
BUCK COAL INC	2	5	1	9	8,469.71	175.26
CENTENNIAL RESOURCES INC	2	2	2	16	7,953.53	4,818.7
CHAROLAIS CORPORATION	2	2	2	6	4,317.27	1,372.27
COASTAL COAL COMPANY LLC	2	9	2	27	20,006.09	1,677.78
EDCO ENERGY CORPORATION	2	10	2	3	424.17	20.2
FCDC COAL INC	2	2	2	15	8,682.13	171.7
FOSSIL FUEL LEASING INC	2	6	2	2	295.99	132.48
FRASURE'S BRANCH COAL COMPANY	2	4	1	1	207.08	3.28
FRIENDSHIP ENERGY INC	2	2	1	2	292.7	152
HARLAN-CUMBERLAND COAL COMPANY	2	3	2	6	7,395.94	186.49
HOLBROOK MINING COMPANY INC	2	7	1	2	300.63	145.5
HOLSTON MINING INC	2	2	1	6	5,446.65	901.97
ISLAND FORK CONSTRUCTION LTD	2	3	1	1	82.9	50
KANNAN MINING COMPANY	2	3	1	3	301.45	115.35
KENTUCKY DARBY COAL COMPANY	2	3	2	6	11,275.73	128.95
KING BROTHERS COAL INC	2	3	1	1	572.82	8.35
KOCH VICTORY DIVISION OF THE C REISS COAL CO	2	2	1	8	1,957.11	107.31
M & J TRUCKING	2	3	1	1	86.85	49
MAPLE RIDGE MINING CORPORATION	2	4	2	4	2,792.27	30.49
MASSIVE MINING INC	2	2	1	1	129.1	17
MC MINING INC	2	3	2			
MILLARD PROCESSING CORPORATION	2	2	2	2	3,712.54	124.25
MONEY BRANCH COAL COMPANY	2	10	2	3	5,685.02	39
MOUNTAIN SPUR COALS & ENERGY INC	2	2	2	3	4,693.11	11.89
PHOENIX MINING INC	2	8	1			
PROCESSING SYSTEMS LLC	2	3	1	2	10,202.9	412
SANDLICK COAL COMPANY INC	2	3	2	10	9,028.22	428.29
SEXTET MINING CORPORATION	2	6	1	3	5,575.8	152
SHAMROCK COAL COMPANY INCORPORATED	2	3	2	12	14,311.3	1,079.54
SMITH COAL PROCESSING	2	7	1	1	10.9	10.9
SOLOMONS MINING COMPANY	2	11	2	6	1,655.76	753.42
STAR FIRE MINING COMPANY	2	2	2	10	7,702.1	5,095.58
WINN CONSTRUCTION COMPANY INC	2	3	2	9	3,707.9	2,290
17 WEST MINING INC	1	1	1	12	9,671.95	6,659
B & P COAL COMPANY INC	1	2	1	1	509.05	7.73
BELL COUNTY COAL CORPORATION	1	1	1	16	23,868.14	1,024.07
BIG CREEK MINING INC	1	1	1	15	8,974.35	2,343.7
BLACK MAGIC RESOURCES INC	1	5	1	2	188.7	186

Permittee	# NC's	Violations	Permits in Violation	Total Permits	Permitted Acres	Disturbed Acres
BLEDSON COAL CORPORATION	1	1	1	26	30,486.58	1,680.48
BLUE DIAMOND COAL COMPANY	1	1	1			
BOB & TOM COAL CO INC	1	1	1	2	743.44	12.76
BRASS RING MINING COMPANY	1	1	1	1	342.08	2
BSE MINING INC	1	1	1	1	249.63	12
BUCKHORN PROCESSING COMPANY	1	1	1	4	394.85	322.85
CAIN & SONS	1	1	1	1	38.6	3.5
CHISHOLM COAL COMPANY	1	1	1	1	4,187.92	316.2
CLOVERFORK MINING & EXCAVATING INC	1	1	1	7	2,668.61	7,498.94
COAL-MAC INC	1	1	1	26	7,453.14	4,451.21
COBRA COAL COMPANY	1	1	1	3	1,531.05	197.26
COLLINS & MAY MINING CO INC	1	3	1	2	156.9	75.9
CORNETTSVILLE COAL CO	1	2	1	1	533.24	8
COUGAR PROCESSING CORPORATION	1	1	1	2	1,196.6	13
CREEKVIEW COAL CORPORATION	1	2	1	2	327.23	127.86
CROCKETT COLLIERIES (KY) INC	1	3	1	2	143.61	10.21
CROSS GATES MINING CO INC	1	3	1	1	295.28	1.3
CROSSOVER MINING INC	1	3	1	1	83.2	3.78
CRYSTAL COLLIERIES INC	1	1	1	1	226.9	5.4
D & H COAL COMPANY OF LAUREL COUNTY INC	1	4	1	2	104.57	56
D & T PARTNERSHIP	1	2	1	1	145.13	80
D F M INC	1	2	1	1	246.5	175
DELTA MACHINERY COMPANY INC	1	6	1	1	408.27	250
DEMA COAL COMPANY INC	1	4	1	2	435.28	5.7
DOUBLE B MINING INC	1	2	1	1	34.3	15
ELKHORN EAGLE MINING COMPANY INC	1	1	1	2	572.31	17.28
F & R LAND COMPANY INC	1	1	1	1	506.44	4.44
G & S COAL INC	1	1	1	8	3,847.53	172.26
GATLIFF COAL COMPANY	1	1	1	35	23,167.16	2,064.94
GREEN CONSTRUCTION OF INDIANA INC	1	1	1	2	429.05	405
H E C COAL COMPANY INC	1	1	1	1	1,033.83	600.17
HARDLY ABLE COAL CO	1	2	1			
HARDTOP MINING CO INC	1	3	1	1	1,146.1	7.9
HAZARD IV ENERGY INC	1	3	1	1	50.6	10
HIGH RIDGE MINING INC	1	4	1			
HUT COAL CO	1	1	1	1	37.4	5.4
IKERD BANDY CO INC	1	1	1	3	889.9	51.65
JAMES H TAYLOR MINING CO	1	3	1	1	102.82	5.25
JBD INDUSTRIAL FUELS INC	1	1	1	1	12.98	12.98
JERICOL MINING INC	1	1	1	16	17,314.47	920.78
KENAMERICAN RESOURCES INC	1	1	1	2	9,885.31	131
KENTUCKY HARLAN COAL COMPANY INC	1	1	1	3	1,112	97.36
KENTUCKY RIVER COAL CORP	1	1	1			
KENTUCKY SOUTHERN COAL CORPORATION	1	2	1	1	259	43
KNOTT COUNTY COAL COMPANY	1	2	1	1	112.99	100
LAKESHORE EQUIPMENT COMPANY INC	1	1	1	1	43.6	3.6
LICK FORK PROCESSING CO	1	3	1	1	41.59	35
LITTLE BOYD COAL CO INC	1	1	1	1	404.74	200

Permittee	# NC's	Violations	Permits in Violation	Total Permits	Permitted Acres	Disturbed Acres
LITTLE VALLEY COAL CO INC	1	1	1	1	121.95	5.95
LODESTAR ENERGY INC	1	3	1	11	8,588.6	3,089.4
LONDON MOTORPLEX INC	1	1	1	1	26.8	26.8
LONE MOUNTAIN PROCESSING INC	1	1	1	6	27,042.75	240.69
LONG FORK COAL COMPANY	1	3	1	6	5,839.57	210.94
M & N ENTERPRISES INC	1	2	1	2	247.1	200.2
MAGIC COAL COMPANY	1	1	1	1	2,069.9	70
MANNING COAL CORPORATION	1	6	1	3	1,223.43	411.28
MARINE COAL CORPORATION	1	1	1	1	1,058.8	16
MATT/CO INC	1	1	1	7	4,341.52	62.83
MELL COAL CORPORATION	1	2	1	1	22	10
MELVA SIDING CO	1	2	1	1	2.04	2.04
MILL BRANCH MINING COMPANY INC	1	1	1	5	1,446.02	28.37
MINERAL RESOURCES INC	1	1	1	1	851.84	1.55
MOUNTAIN MINERALS INC	1	1	1	1	257.76	100
MOUNTAINSIDE COAL CO INC	1	1	1	2	611.45	380
NIOTA COAL COMPANY	1	1	1	1	519	35
PANBOWL ENERGY COMPANY	1	4	1	1	684.91	359.25
PATRICK PROCESSING LLC	1	1	1	2	1,250.1	15.5
PAYCO INC	1	4	1	1	36.8	3.3
PENNYRILE COAL CO INC	1	2	1	2	7,892.81	1,014.9
R & M MINING COMPANY	1	4	1			
RAVEN RESOURCES INC	1	3	1	1	44.39	15.3
REBECCA COAL CO	1	4	1	1	142.3	3
ROAD FORK DEVELOPMENT COMPANY INC	1	2	1	7	10,792.1	112.36
ROCKHOLD COAL CO INC	1	3	1	2	32.12	9.65
RUBY COAL COMPANY OF LONDON INC	1	2	1	4	372.06	115.3
RUST OF KENTUCKY INC	1	4	1			
SAND HILL ENERGY INC	1	1	1	7	372.8	113
STAR RUN INC	1	1	1	1	671.91	3
STAR TRANSPORT INC	1	1	1	1	1,134.4	33.55
STONE MINING COMPANY	1	1	1	6	15,315.92	90.08
STRAIGHT CREEK COAL RESOURCES COMPANY	1	1	1	30	22,679.41	5,342.41
STRATA MINING INC	1	1	1	2	794.5	320
STURGEON MINING COMPANY INC	1	3	1	9	1,527.93	397.69
TRANSMAR LAND CORPORATION	1	3	1	3	1,251.09	596
U S ENERGY INC	1	2	1	1	301.65	18.35
USEONE INC	1	1	1	1	718.94	3.94
WALTER CALDWELL JR	1	1	1			
WELLMORE COAL CORPORATION	1	1	1	20	12,613.1	335.78
WHITE CLOUD MINING CO INC	1	4	1	1	246.14	9
WHITE OAK COAL CORPORATION	1	2	1	2	22.08	18.16
WIND RIVER ENERGY CORPORATION	1	1	1			
ZIELINSKI CONSTRUCTION CORPORATION	1	3	1	6	1,077.9	899.3

APPENDIX D

PERMITTEES ISSUED NON-COMPLIANCES BY DSMRE
(Listed Alphabetically)

Permittee	# NC's	Violations	Permits in Violation	Total Permits	Permitted Acres	Disturbed Acres
17 WEST MINING INC	1	1	1	12	9,671.95	6,659
A & P MINING COMPANY INC	2	3	2			
ADDINGTON INC	3	3	2	5	4,164.84	3,066.84
ADDINGTON MINING INC	22	29	15	66	24,307.83	13,389.02
AL-KEN LLC	3	11	1	1	288.32	170
ALLEY-CASSETTY COAL CO INC	2	6	2	4	1,637.9	678
AMERICAN COAL CORPORATION	2	5	2	5	2,259.7	760.3
APPOLO FUELS INC	3	6	3	32	14,383.54	2,341.01
B & P COAL COMPANY INC	1	2	1	1	509.05	7.73
B R C COAL COMPANY INCORPORATED	4	5	2	2	743.59	373
BBQ RESOURCES INC	4	16	1	1	160.75	79
BDCC HOLDING COMPANY INC	3	4	3	23	29,635.72	1,130.16
BEECH CREEK ENERGY INC	5	11	3	4	286.75	96.65
BEECH FORK PROCESSING INC	2	2	2	20	14,849.34	983.47
BELL COUNTY COAL CORPORATION	1	1	1	16	23,868.14	1,024.07
BERKELEY ENERGY CORPORATION	6	8	2	16	6,367.05	288.74
BIG CREEK MINING INC	1	1	1	15	8,974.35	2,343.7
BLACK MAGIC RESOURCES INC	1	5	1	2	188.7	186
BLED SOE COAL CORPORATION	1	1	1	26	30,486.58	1,680.48
BLUE DIAMOND COAL COMPANY	1	1	1			
BOB & TOM COAL CO INC	1	1	1	2	743.44	12.76
BRANHAM & BAKER COAL COMPANY INC	29	44	15	68	50,993.8	9,442.88
BRASS RING MINING COMPANY	1	1	1	1	342.08	2
BSE MINING INC	1	1	1	1	249.63	12
BUCK COAL INC	2	5	1	9	8,469.71	175.26
BUCKHORN PROCESSING COMPANY	1	1	1	4	394.85	322.85
C C & J COAL COMPANY INC	3	9	1	1	651.03	4.07
CAIN & SONS	1	1	1	1	38.6	3.5
CARBON TECH FUELS INC	3	7	1	1	154.33	7.5
CENTENNIAL RESOURCES INC	2	2	2	16	7,953.53	4,818.7
CHAROLAIS CORPORATION	2	2	2	6	4,317.27	1,372.27
CHEYENNE RESOURCES INC	8	17	3	4	1,012.74	646.5
CHISHOLM COAL COMPANY	1	1	1	1	4,187.92	316.2
CLINTWOOD ELKHORN MINING COMPANY	5	6	3	37	34,940.31	1,442.96
CLOVERFORK MINING & EXCAVATING INC	1	1	1	7	2,668.61	7,498.94
COAL-MAC INC	1	1	1	26	7,453.14	4,451.21
COASTAL COAL COMPANY LLC	2	9	2	27	20,006.09	1,677.78
COBRA COAL COMPANY	1	1	1	3	1,531.05	197.26
COLLINS & MAY MINING CO INC	1	3	1	2	156.9	75.9
CONSOL OF KENTUCKY INC	10	14	8	47	49,620.55	4,701.92
CORNETTSVILLE COAL CO	1	2	1	1	533.24	8
COUGAR PROCESSING CORPORATION	1	1	1	2	1,196.6	13
CREEKVIEW COAL CORPORATION	1	2	1	2	327.23	127.86
CROCKETT COLLIERIES (KY) INC	1	3	1	2	143.61	10.21
CROSS GATES MINING CO INC	1	3	1	1	295.28	1.3
CROSSOVER MINING INC	1	3	1	1	83.2	3.78
CRYSTAL COLLIERIES INC	1	1	1	1	226.9	5.4
CZAR COAL CORPORATION	5	5	4	33	18,293.08	2,000

Permittee	# NC's	Violations	Permits in Violation	Total Permits	Permitted Acres	Disturbed Acres
D & H COAL COMPANY OF LAUREL COUNTY INC	1	4	1	2	104.57	56
D & T PARTNERSHIP	1	2	1	1	145.13	80
D F M INC	1	2	1	1	246.5	175
DELTA MACHINERY COMPANY INC	1	6	1	1	408.27	250
DEMA COAL COMPANY INC	1	4	1	2	435.28	5.7
DIAMOND MAY COAL COMPANY	15	22	7	19	13,091.15	1,859.11
DOUBLE B MINING INC	1	2	1	1	34.3	15
EDCO ENERGY CORPORATION	2	10	2	3	424.17	20.2
ELKHORN EAGLE MINING COMPANY INC	1	1	1	2	572.31	17.28
F & R LAND COMPANY INC	1	1	1	1	506.44	4.44
FCDC COAL INC	2	2	2	15	8,682.13	171.7
FOSSIL FUEL LEASING INC	2	6	2	2	295.99	132.48
FRASURE'S BRANCH COAL COMPANY	2	4	1	1	207.08	3.28
FRIENDSHIP ENERGY INC	2	2	1	2	292.7	152
FRONTIER MINING COMPANY INC	7	16	2	2	1,719.9	748
G & S COAL INC	1	1	1	8	3,847.53	172.26
GATLIFF COAL COMPANY	1	1	1	35	23,167.16	2,064.94
GOLDEN OAK MINING COMPANY	21	37	15	28	26,247.03	3,813.66
GREEN CONSTRUCTION OF INDIANA INC	1	1	1	2	429.05	405
H B & S COAL COMPANY INC	3	9	2	2	249.92	186.8
H E C COAL COMPANY INC	1	1	1	1	1,033.83	600.17
HANNCO ENERGY CORPORATION	6	9	4	6	1,467.14	1,157.46
HARDLY ABLE COAL CO	1	2	1			
HARDTOP MINING CO INC	1	3	1	1	1,146.1	7.9
HARLAN RECLAMATION SERVICES LLC	12	17	5	11	25,949.5	1,450.73
HARLAN-CUMBERLAND COAL COMPANY	2	3	2	6	7,395.94	186.49
HAZARD IV ENERGY INC	1	3	1	1	50.6	10
HIGH RIDGE MINING INC	1	4	1			
HOLBROOK MINING COMPANY INC	2	7	1	2	300.63	145.5
HOLSTON MINING INC	2	2	1	6	5,446.65	901.97
HUT COAL CO	1	1	1	1	37.4	5.4
IKERD BANDY CO INC	1	1	1	3	889.9	51.65
IKERD-BANDY CO INC	5	6	4	26	10,666.72	5,217.52
ISLAND FORK CONSTRUCTION LTD	2	3	1	1	82.9	50
JAMES H TAYLOR MINING CO	1	3	1	1	102.82	5.25
JBD INDUSTRIAL FUELS INC	1	1	1	1	12.98	12.98
JERICOL MINING INC	1	1	1	16	17,314.47	920.78
KANNAN MINING COMPANY	2	3	1	3	301.45	115.35
KENAMERICAN RESOURCES INC	1	1	1	2	9,885.31	131
KENTUCKY DARBY COAL COMPANY	2	3	2	6	11,275.73	128.95
KENTUCKY HARLAN COAL COMPANY INC	1	1	1	3	1,112	97.36
KENTUCKY MAY COAL COMPANY INC	5	9	3	37	20,081.7	2,045.59
KENTUCKY PROCESSING COMPANY	3	10	3	3	430.8	395.75
KENTUCKY RIVER COAL CORP	1	1	1			
KENTUCKY SOUTHERN COAL CORPORATION	1	2	1	1	259	43
KING BROTHERS COAL INC	2	3	1	1	572.82	8.35
KNOTT COUNTY COAL COMPANY	1	2	1	1	112.99	100
KNOTT COUNTY MINING COMPANY	5	7	2	7	9,663.2	255

Permittee	# NC's	Violations	Permits in Violation	Total Permits	Permitted Acres	Disturbed Acres
KOCH VICTORY DIVISION OF THE C REISS COAL CO	2	2	1	8	1,957.11	107.31
LAKESHORE EQUIPMENT COMPANY INC	1	1	1	1	43.6	3.6
LANHAM MINING COMPANY INC	3	3	2	2	725.7	472.5
LEECO INC	3	4	2	11	21,934.45	374.94
LESLIE RESOURCES INC	17	30	9	51	27,669.73	15,806.54
LICK FORK PROCESSING CO	1	3	1	1	41.59	35
LITTLE BOYD COAL CO INC	1	1	1	1	404.74	200
LITTLE VALLEY COAL CO INC	1	1	1	1	121.95	5.95
LOCUST GROVE INC	5	10	2	10	5,204.59	2,815.28
LODESTAR ENERGY INC	1	3	1	11	8,588.6	3,089.4
LODESTAR ENERGY INC	12	17	8	54	29,546.48	7,913.93
LONDON MOTORPLEX INC	1	1	1	1	26.8	26.8
LONE MOUNTAIN PROCESSING INC	1	1	1	6	27,042.75	240.69
LONG FORK COAL COMPANY	1	3	1	6	5,839.57	210.94
M & G COAL SALES INC	5	10	2	3	361.01	116.36
M & J TRUCKING	2	3	1	1	86.85	49
M & N ENTERPRISES INC	1	2	1	2	247.1	200.2
MAGIC COAL COMPANY	1	1	1	1	2,069.9	70
MAJESTIC COLLIERIES COMPANY	4	5	1	12	2,411.9	339.62
MANALAPAN MINING COMPANY INC	4	10	3	17	25,197.67	9,386.96
MANNING COAL CORPORATION	1	6	1	3	1,223.43	411.28
MAPLE RIDGE MINING CORPORATION	2	4	2	4	2,792.27	30.49
MARINE COAL CORPORATION	1	1	1	1	1,058.8	16
MARTIN COUNTY COAL CORPORATION	14	32	8	31	27,863.24	8,270.46
MASSIVE MINING INC	2	2	1	1	129.1	17
MATT/CO INC	1	1	1	7	4,341.52	62.83
MC MINING INC	2	3	2			
MCCOY COAL COMPANY	4	8	1	1	1,359.77	900
MCCOY ELKHORN COAL CORPORATION	6	6	3	26	25,894.74	659.6
MELL COAL CORPORATION	1	2	1	1	22	10
MELVA SIDING CO	1	2	1	1	2.04	2.04
MILL BRANCH MINING COMPANY INC	1	1	1	5	1,446.02	28.37
MILLARD PROCESSING CORPORATION	2	2	2	2	3,712.54	124.25
MILLER BROS COAL INC	6	8	6	8	3,590.22	2,183.85
MINERAL RESOURCES INC	1	1	1	1	851.84	1.55
MONEY BRANCH COAL COMPANY	2	10	2	3	5,685.02	39
MOTTS BRANCH COAL INC	4	5	3	12	7,100.73	1,263.22
MOUNTAIN MINERALS INC	1	1	1	1	257.76	100
MOUNTAIN SPUR COALS & ENERGY INC	2	2	2	3	4,693.11	11.89
MOUNTAINSIDE COAL CO INC	1	1	1	2	611.45	380
N A L R COAL CORPORATION	8	22	5	6	898.84	517.35
NALLY & HAMILTON ENTERPRISES INC	24	42	11	29	17,314.11	9,370.88
NEW RIDGE MINING COMPANY	3	9	3	12	4,707.23	349.8
NIOTA COAL COMPANY	1	1	1	1	519	35
NO 1 CONTRACTOR INC	3	5	1	1	115.29	8
PANBOWL ENERGY COMPANY	1	4	1	1	684.91	359.25
PATRICK PROCESSING LLC	1	1	1	2	1,250.1	15.5
PAYCO INC	1	4	1	1	36.8	3.3

Permittee	# NC's	Violations	Permits in Violation	Total Permits	Permitted Acres	Disturbed Acres
PENNYRILE COAL CO INC	1	2	1	2	7,892.81	1,014.9
PHOENIX MINING INC	2	8	1			
PREMIER ELKHORN COAL COMPANY	18	21	7	37	40,866	5,356.83
PROCESSING SYSTEMS LLC	2	3	1	2	10,202.9	412
R & M MINING COMPANY	1	4	1			
RAVEN RESOURCES INC	1	3	1	1	44.39	15.3
REBECCA COAL CO	1	4	1	1	142.3	3
REDBONE COAL COMPANY INC	3	3	2	7	4,707.47	1,501.6
RICHARDSON FUEL INC	3	5	3	8	3,753.8	594
ROAD FORK DEVELOPMENT COMPANY INC	1	2	1	7	10,792.1	112.36
ROADSIDE PROCESSING INC	9	18	2	2	145.15	145.15
ROCKHOLD COAL CO INC	1	3	1	2	32.12	9.65
RUBY COAL COMPANY OF LONDON INC	1	2	1	4	372.06	115.3
RUST OF KENTUCKY INC	1	4	1			
SAND HILL ENERGY INC	1	1	1	7	372.8	113
SANDLICK COAL COMPANY INC	2	3	2	10	9,028.22	428.29
SAYLOR BROTHERS ENTERPRISES INC	3	8	2	2	867.62	37.92
SEXTET MINING CORPORATION	2	6	1	3	5,575.8	152
SHAMROCK COAL COMPANY INCORPORATED	2	3	2	12	14,311.3	1,079.54
SIDNEY COAL COMPANY INC	17	24	7	39	63,983.11	787.8
SMITH COAL PROCESSING	2	7	1	1	10.9	10.9
SOLOMONS MINING COMPANY	2	11	2	6	1,655.76	753.42
STAR FIRE MINING COMPANY	2	2	2	10	7,702.1	5,095.58
STAR RUN INC	1	1	1	1	671.91	3
STAR TRANSPORT INC	1	1	1	1	1,134.4	33.55
STONE MINING COMPANY	1	1	1	6	15,315.92	90.08
STRAIGHT CREEK COAL RESOURCES COMPANY	1	1	1	30	22,679.41	5,342.41
STRATA MINING INC	1	1	1	2	794.5	320
STURGEON MINING COMPANY INC	1	3	1	9	1,527.93	397.69
SUNNY RIDGE MINING COMPANY INC	17	30	6	26	9,992.8	4,049.16
TERRY GLENN COAL COMPANY	5	6	4	4	886.8	67.26
THE ELK HORN COAL CORPORATION	3	6	3	8	7,769.95	327.25
TRANSMAR LAND CORPORATION	1	3	1	3	1,251.09	596
U S ENERGY INC	1	2	1	1	301.65	18.35
USEONE INC	1	1	1	1	718.94	3.94
WALTER CALDWELL JR	1	1	1			
WASH RIDGE COAL CO INC	3	4	2	12	3,036.33	1,082.3
WELLMORE COAL CORPORATION	1	1	1	20	12,613.1	335.78
WHITE CLOUD MINING CO INC	1	4	1	1	246.14	9
WHITE OAK COAL CORPORATION	1	2	1	2	22.08	18.16
WHYMORE COAL COMPANY INC	3	11	2	7	803.6	288.48
WIND RIVER ENERGY CORPORATION	1	1	1			
WINN CONSTRUCTION COMPANY INC	2	3	2	9	3,707.9	2,290
ZIELINSKI CONSTRUCTION CORPORATION	1	3	1	6	1,077.9	899.3