

**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**

**LOUISIANA**

**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 Louisiana Office of Conservation (LOC), the State coal mine regulatory authority and State abandoned mine land (AML) program. The oversight studies focused on the success of Louisiana in meeting the Surface Mining Control and Reclamation Act's goals for environmental protection of land mined for coal. An evaluation (performance) plan was cooperatively developed by the BFO and the State to tailor the oversight activities to the unique conditions of the 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 offsite impacts, reclamation success and customer service.

- The offsite impacts study demonstrated that no offsite impacts had occurred on the two coal mining permits during the review period.
- The BFO's review of all bond release actions demonstrated that LOC follows all program requirements for releasing bonds on permitted mine sites.
- To evaluate the effectiveness of customer service provided by LOC, the BFO evaluated LOC's processing of citizen complaints and lands unsuitable petitions. No citizen complaints were received during the review period. LOC received three lands unsuitable petitions during EY 2005. Since two of the petitions were incomplete, they were returned to the petitioners. The third petition was accepted and is currently under review by LOC. The accepted petition requests that LOC declare lands considered part of the Mansfield Civil War Battle Site adjacent to the Dolet Hills Mine unsuitable for future mining.

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

- The BFO reviewed the State's procedures for interacting with the U. S. Fish and Wildlife Service (USFWS). LOC consulted with the USFWS prior to the approval of the five year updates/modifications to the two permits. LOC made written findings that no threatened or endangered species existed in the project areas, and that the mining operations would not result in the destruction or adverse modification to their critical habitat.
- A review of the State's AML program was performed to determine the status of the program. LOC contracts out a significant portion of its AML program development activity. Although some elements of the contract had been executed, others had not. During EY 2005, LOC hired personnel to support both AML and regulatory activities. This effort has resulted in development of proposed changes to the State

AML Plan and development of AML inventory data. The LOC is pursuing options for a non-coal AML reclamation project.

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## **LIST OF ACRONYMS USED IN THE REPORT**

AML - Abandoned Mine Land  
AMLIS - Abandoned Mine Land Inventory System  
AOC - Approximate Original Contour  
BFO - Birmingham Field Office  
EY - Evaluation Year  
FY - Fiscal Year  
LOC - Louisiana Office of Conservation  
OSM - Office of Surface Mining Reclamation and Enforcement  
Plan - Louisiana Abandoned Mine Reclamation Plan  
SHPO - State Historic Preservation Officer  
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 Reclamation and Enforcement (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 Louisiana Regulatory and Abandoned Mine Land (AML) Programs and the effectiveness of the Louisiana Programs in meeting the applicable purposes of SMCRA as specified in section 102. The Louisiana Department of Natural Resources, Office of Conservation (LOC), administers the programs. This report covers the period of July 1, 2004, to June 30, 2005. Detailed background information and 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 LOUISIANA COAL MINING INDUSTRY**

Louisiana's estimated 1.0 billion tons of identified coal reserves consists entirely of lignite. The lignite deposits are located in the northwest part of the State, a moist, temperate region with highly erodible soils. Lignite was recognized in Louisiana as early as 1812. The first documented use occurred at the Confederate arsenal near Shreveport during the Civil War. By the late 1800's, the use of lignite by blacksmiths, steamboats, and railroads was common. In September 1985, the first permitted surface coal mine began production and is still in operation. This operation uses a 4.5 mile-long conveyor to transport lignite to the associated mine-mouth power plant. A second permitted surface mine began producing lignite in 1989, transporting its production by truck to the same power plant. In 2004, the two surface mines produced 3.82 million tons of lignite and employed approximately 100 people.

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

Opportunities for public participation occur at significant points in the Louisiana 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 decisions of the Commission of Conservation on permit and revision applications;
- to request an inspection of a mine site;
- to object to proposed bond releases;
- to initiate citizen suits; and
- to petition to initiate rulemaking.

Opportunities for public participation in the Louisiana AML program occur at the time of:

- project selection;
- grant application;
- consultation under the National Environmental Policy Act; and
- amendments to the State Reclamation Plan.

#### **IV. MAJOR ACCOMPLISHMENTS/ISSUES/INNOVATIONS IN THE LOUISIANA PROGRAM**

##### *Louisiana Regulatory Program*

During the evaluation year (EY), LOC continued to successfully administer its regulatory program. Inspections were conducted as required, and conditions on the mine sites thoroughly documented. No violations of the Louisiana surface mining law or regulations were noted during the year. LOC has addressed its staffing needs by filling vacant positions that support both regulatory and abandoned mine land program activities. During EY 2005, LOC received and accepted for review a Lands Unsuitable Petition.

##### *Louisiana Abandoned Mine Land Program*

LOC was certified in 1990 as a non-coal AML program. LOC AML activities consisted of administrative functions and field reviews of prospective non-coal AML projects. These activities have not produced a completed inventory of non-coal sites or completion of entries in the Abandoned Mine Land Inventory System (AMLIS). No associated construction project has been planned or initiated.

#### **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 standard and public participation evaluations are 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 State regulatory programs in protecting the environment and the public from offsite impacts resulting from surface

coal mining and reclamation operations. Data are 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 causes a negative effect on resources (people, land, water, structures). The impact must also be regulated or controlled by the State regulatory program. The impact must be coal mine related and must occur outside the area authorized by the permit for conducting mining and reclamation activities.

During EY 2005, the BFO conducted three joint inspections at the two lignite mines in the State. No offsite impacts were identified at these inspectable units. No offsite impacts were noted in any of the 24 inspection reports prepared by LOC. No enforcement actions were issued by LOC. One-hundred percent of the inspectable units in Louisiana are free of offsite impacts.

B. Reclamation Success:

Bond releases received by LOC after July 1, 2004, were selected for this evaluation. LOC received and approved two bond release requests during this evaluation year. These requests were for Phase I, II, and III bond releases. Field reviews by OSM for both releases occurred prior to the final bond release approval by the State.

The following parameters as outlined in OSM Directive REG-8 were evaluated through field observations and/or review of the State bond release files:

- Phase I - Achievement of Approximate Original Contour (AOC)
- Phase II - Replacement of soil resources and 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

The BFO inspected and conducted permit file reviews on two increments, totaling 28.03 acres, for bond release. One of the increments was a combined Phase I, II, and III request on 4.50 acres. The remaining increment was for a Phase III release on 23.53 acres. LOC had previously approved a Phase I and II release on this area. These two sites were field inspected for the achievement of AOC, stability of the vegetation, postmining land use and successful vegetative cover. The permit files were reviewed for information on reclamation profiles, seed mixes, approved postmining land uses, water monitoring data on surface and groundwater, and productivity data, where applicable.

The 4.50-acre increment was determined to have met the requirements for AOC. The vegetation was stable and sufficient to control erosion, and achieved the overall amount and type of approved vegetative cover. The 23.53-acre increment achieved the approved

postmining land use, all water quality standards were met, and the productivity data was determined to be appropriate. In both releases, the liability periods had been met.

OSM agreed in both cases with LOC's final determination of approval of the bond release requests. Based upon this review, the BFO has determined that LOC's decisions on approving bond release requests meet the requirements of the approved Louisiana surface mining program.

C. Customer Service:

OSM considers customer service an integral and important part of the implementation of an approved State program. Public input into the State program can be accomplished through several avenues. Citizens may comment on permit applications, amendments to the State program, or may file complaints on current mining operations.

During EY 2005, the BFO reviewed LOC's processing of citizen complaints and lands unsuitable petitions. OSM conducted these reviews to determine the effectiveness of the State's performance regarding customer service.

***Citizen Complaint Processing***

LOC has regulations and procedures for processing citizen complaints. These procedures address when a citizen may request an inspection of a mine site, the procedures the citizen must follow, the confidentiality of the citizen, the timing of notification of the citizen if an inspection is conducted, right of entry of the citizen, timing of actions taken, notification of the citizen of the action taken, and the citizen's right to appeal the action taken.

A review of the State files pertaining to citizen complaints and inquiries revealed that LOC received no citizen complaints or inquiries during the period of July 1, 2004, through April 30, 2005.

***Lands Unsuitable Petition for the Mansfield Civil War Battle Site***

The Mansfield Civil War Battle Site is located along what is now State Highway 175 and adjacent to and within the Dolet Hills Lignite Company mine. The Battle of Mansfield took place on April 8 and 9, 1864. The main parts of the battle site are protected in a State Park, but later phases of the battle took place in areas several miles from the Park.

In 1983, LOC issued a lignite mining permit that included lands considered part of the battle site. The permit application for the approved permit contained studies that describe the Mansfield Civil War Battle Site found in the permit area. The State Historic Preservation Officer (SHPO) reviewed and approved the studies and plans. The most recent update to the permit contains a detailed study of the area in the permit to be affected by this phase of mining and contains approval by the SHPO. This cultural resource study recommends additional investigation for part of the area. LOC included a

provision in its approval of the update that additional investigation must be accomplished before the area in question could be disturbed. This investigation has not been performed at this time, since the area is not proposed to be mined in the near future.

LOC received a petition on April 19, 2004, to declare lands considered part of the Mansfield Civil War Battle Site within and adjacent to the Dolet Hills Lignite Company mine unsuitable for mining. LOC reviewed the petition and returned the incomplete petition to the petitioners. In the letter returning the petition, LOC explained that the Louisiana surface mining law and rules specifically exempt lands within an approved permit from being declared unsuitable for mining. The lands in question were within the approved permit boundaries when the permit was issued in 1983 and in the latest five-year update that was approved in 2003.

Subsequent to the original petition, LOC received two additional revised petitions during EY 2005. Each petition sought to address only those areas outside of the permit boundaries that could be considered part of the Mansfield Battlefield area. LOC again determined that the information contained in each petition was incomplete.

In each of the above instances, LOC explained in detail the deficiencies in each petition submitted. Deficiencies noted were mapping boundary errors, interchanging information in the original petition with the revised petition, inaccurate property owner listings, failure to identify parties and petitioners as authorized to act in their capacity, and other factually incorrect information. The petitioner was told in each instance that the petition would need to be resubmitted in proper form to be considered by LOC.

A revised "Petition to Designate Mansfield Battlefield Unsuitable for Surface Mining", dated February 18, 2005, was received by LOC on February 22, 2005. This petition seeks to protect only the portions of the Battlefield outside the area permitted for mining. The petitioners are seeking to ensure that the areas of the Battlefield not yet permitted are protected from future mining. After reviewing the petition, LOC accepted the petition to designate a portion of DeSoto Parish as unsuitable for surface coal mining for review. On April 5, 2005, all interested parties, including landowners and local officials, were notified that a petition for lands unsuitable had been accepted for review, and a copy of the petition was provided to each.

As provided by the Louisiana Surface Mining Regulations, a public hearing will be held in Mansfield, Louisiana within 10 months of the receipt of the complete petition. The LOC is presently planning the public hearing which will be held prior to December 22, 2005.

## **VI. OSM ASSISTANCE**

The focus of OSM's oversight role has shifted to on-the-ground reclamation success and end results rather 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 provided information to LOC regarding new policy guidelines and procedures, as well as changes in existing guidelines and procedures. No assistance activities were conducted during this review period.

## **VII. GENERAL OVERSIGHT TOPIC REVIEWS**

### **A. Program Evaluations of the State Regulatory Program**

#### ***Coordination with the U. S. Fish and Wildlife Service***

The BFO reviewed LOC's procedures for coordinating with the U. S. Fish and Wildlife Service (USFWS). Two lignite surface mines are operating in Louisiana – the Dolet Hills Mine and the Red River Mine. The Dolet Hills Mine permit was issued in 1983, and the Red River Mine permit was issued in 1988. Complete fish and wildlife surveys were performed. No threatened or endangered species or their critical habitats were identified in the permit areas. The permit application submittals included fish and wildlife plans and discussions on postmining land use. LOC consulted with the USFWS and made the appropriate findings.

As part of the latest five-year permit revision/updates, each company submitted an updated fish and wildlife plan. Both companies have plans that include provisions for habitat and foraging plants for wildlife. The Dolet Hills plan contains the following fish and wildlife enhancement measures: establishment of food plots, establishment of suitable nesting sites for birds, provision of salt licks, restriction of hunting, and reclaiming five tracks to permanent fish and wildlife habitat. The Red River plan contains the following fish and wildlife enhancement measures: prohibition of hunting within the permit boundaries, consideration of wildlife in the selection of temporary cover plant species, provision of raptor perches, and development of impoundments.

A review of the permits revealed that the companies submitted the required information regarding fish and wildlife, including biological surveys, fish and wildlife plans, and updates/revisions to the fish and wildlife plans. No threatened or endangered species were present on the mines or adjacent areas. Permit findings were made by the State based on the natural resource information provided as part of the application for the two permits. Findings were made that no Federal or State endangered or threatened species or their critical habitats were known to occur within the permit areas or adjacent areas.

Louisiana's regulations require that the State provide written notification to State and Federal fish and wildlife agencies (i.e. consultation process) as part of their permit approval process. The USFWS was provided written notification prior to the approval of each five-year permit revision/update. LOC considers comments and recommendations from the USFWS.

### **B. Program Evaluations of the State Abandoned Mine Land Program**

#### ***Review of the Status of the Louisiana Abandoned Mine Land Program***

For EY 2005, the BFO reviewed and evaluated LOC's entire AML program to determine the status of the program. The LOC operates its approved AML Program through policies and procedures established in its Louisiana Abandoned Mine Reclamation Plan (Plan) and procedures/requirements stated in annual grant agreements. The Plan was submitted to OSM on February 3, 1986, in compliance with Federal requirements for establishment of the State's AML program. The Plan was approved by OSM on December 10, 1986.

The initial inventory and reclamation need assessments were conducted during Fiscal Years (FY) 1986 and 1987 and focused on those parishes in northern Louisiana with lignite deposits. Based on these investigations, it was determined that no eligible lignite sites requiring reclamation were present; however, significant historic non-coal surface mining sites were identified. Pursuant to SMCRA, Louisiana certified on June 12, 1989, that all coal/lignite related AML problems were reclaimed. Federal concurrence with Louisiana's non-coal reclamation status was achieved on April 9, 1990.

From 1989 forward, LOC's AML program has focused on non-coal inventory expansion, assessment of non-coal reclamation needs, education/awareness programs and identification of funding strategies/alternative funding sources to provide for accomplishment of reclamation objectives.

An informal Plan amendment, including proposed Louisiana Surface Mining Law and Abandoned Mine Land Regulation changes, was prepared and submitted to OSM for review during FY 2002. OSM provided comments to LOC on the draft Plan amendment in FY 2002. As of the close of EY 2005, LOC had not re-submitted the Plan amendment.

Historically, the Louisiana AML program has contracted out a significant amount of its AML work. The current contract is in effect through August 5, 2006. The contract provides for the update of the Plan, completion of the inventory of eligible sites, documentation of site investigations, identification of alternative and supplemental funding sources, completion of appropriate documents on behalf of LOC to obtain reclamation funds, and assisting LOC in preparation of required grant applications and associated reports. The following determinations concerning the status of AML work covered by the current contract were developed through discussions with LOC and document reviews:

- The contract provides for the revision and update of the Plan, the Louisiana Abandoned Mine Land Regulations, and the Louisiana Surface Mining and Reclamation Act. None of these products, which were to be provided by January 31, 2004, were available at LOC. Technical consultation in preparation and submittal of these documents through Federal and State review and rule-making processes would potentially run throughout the duration of the three-year contract.

- Geographic Information System updates and metadata development, mine site remote sensing investigations and eligibility determinations, and development of site-specific problem area descriptions have been submitted to LOC to assist them in meeting their State performance indicator goals. LOC has been provided with 100 of the 127 eligible non-coal inventory sites program indicators. This year's State performance goal of completing 80 percent of the inventoried sites by June 30, 2005, has been met. None of the identified sites have been entered into the national AMLIS database.
- Alternative funding sources are being sought to address pre-SMCRA non-coal Priority 1 and 2 problem sites. As written, the contract allows the review and documentation of post-1977 sites posing public safety risks and those sites with environmental problems. These post-1977 non-coal sites are not eligible for AML grant funding, and additional efforts to identify such sites should be terminated, if funded by AML grant monies.
- Monthly project progress reports and accomplishments under the contract are being provided to LOC as required.
- Grant administration assistance is to be provided to LOC. However, all work relating to the submittal of the 2005 AML Simplified Grant application was performed by LOC personnel.

In December 2004, LOC hired personnel to support AML and regulatory program efforts. This effort has resulted in development of proposed changes to the State AML Plan and development of AMLIS data. The LOC is pursuing options for a non-coal AML reclamation project.

There are no abandoned coal mines in Louisiana. Therefore, in the past, LOC's AML activities consisted of administrative functions and field reviews of prospective non-coal AML projects. LOC continued to expand and improve its identification and collection of location data for non-coal AML sites. Since much of the necessary administrative activities have been completed or are a part of normal AML program activities, the continued refinement of the AML inventory can be accomplished while the primary focus of developing a construction project is initiated. LOC's staff can continue inventory development efforts, conduct necessary administrative responsibilities, and begin implementation of an AML construction project.



## **APPENDIX A**

### **TABULAR SUMMARY OF CORE DATA TO CHARACTERIZE THE PROGRAM**

*The following tables present data pertinent to mining operations and State regulatory activities within Louisiana. They also summarize funding provided by OSM and Louisiana 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 Louisiana's performance is available for review in the evaluation files maintained by the Birmingham OSM Office.*



## **APPENDIX B**

### **STATE COMMENTS ON THE REPORT AND RESPONSES TO COMMENTS**

