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***OFFICE OF SURFACE MINING
RECLAMATION AND ENFORCEMENT***

Annual Evaluation Summary Report

for the

Regulatory Program

Administered by the Knoxville Field Office

of

Tennessee

for

Evaluation Year 2005

(October 1, 2004, to September 30, 2005)

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I. INTRODUCTION

The Surface Mining Control and Reclamation Act of 1977 (SMCRA) created the Office of Surface Mining Reclamation and Enforcement (OSM) in the Department of the Interior. SMCRA provides authority to 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. The Act also provides authority for OSM to implement a Federal regulatory program in the States without approved regulatory programs. In Tennessee, OSM implemented the Federal regulatory program in October 1984 when the State repealed its surface mining law. This report contains summary information regarding the Tennessee Federal Program and the effectiveness of the Federal Program in meeting the applicable purposes of SMCRA as specified in section 102. This report covers the period of October 1, 2004, to September 30, 2005. Detailed background information and comprehensive reports for the program elements evaluated during the period are available for review and copying at the Knoxville, Tennessee OSM Office. You can also view this report on the OSM Appalachian Regional website at www.arcc.osmre.gov/reports.

The following list of acronyms is used in this report:

ACSP	Appalachian Clean Streams Program
AMD	Acid Mine Drainage
AML	Abandoned Mine Land
ARRI	Appalachian Regional Reforestation Initiative
BTTI	Branch of Technical Training
FRA	Forestry Reclamation Approach
KFO	Knoxville Field Office
MEIR	Minesite Evaluation Inspection Report
NMA	National Mining Association
NRCS	Natural Resources Conservation Service
OSM	Office of Surface Mining
SMCRA	Surface Mining Control and Reclamation Act
TDEC	Tennessee Department of Environment and Conservation
TWRA	Tennessee Wildlife Resources Agency
TMHP	Toxic Material Handling Plan

II. OVERVIEW OF THE TENNESSEE COAL MINING INDUSTRY

Tennessee's coal resources are in 22 counties located in the Appalachian Region of the Eastern United States extending from the Kentucky border to the Alabama border in the east central portion of Tennessee. Mining in the northern counties is primarily in the steep slope areas of the Cumberland Mountain range. Mining in the southern counties is confined to area-type operations due to the relatively flat terrain associated with the Cumberland Plateau.

Tennessee's recoverable coal reserves of 66.9 million short tons exist in bituminous coal beds from less than 28 inches to 42 inches in thickness at depths of up to 1,000 feet. Tennessee coal is used primarily for the generation of electric power.

Tennessee ranked twentieth in production of coal among the 26 coal-producing states in calendar year 2004. Coal production steadily declined from a high of 11,260,000 tons in 1972 to 2,680,888 tons in 1998. During 2001 and 2002, coal production increased slightly but showed a decrease in 2003 to 2.564 million tons. Calendar year 2004 coal production was 2.98 million tons. Currently, there are 22 active coal-producing mines that have permitted 10,807 acres for mining. Underground mines have permitted 192 acres (excluding shadow areas) at 8 active mines, and surface operations have permitted 8,879 acres at 14 active mines as of September 30, 2005.

III. OVERVIEW OF THE PUBLIC PARTICIPATION OPPORTUNITIES IN THE TENNESSEE FEDERAL PROGRAM

The Tennessee Federal Program provides numerous public participation opportunities in its program activities. Efforts are made to encourage participation and to inform the public of the avenues to participate in the regulatory program.

- **Public/Citizen Participation in the Regulatory Process**

Citizens, environmental groups, and industry representatives have complete access to all regulatory program files including permitting, inspection and enforcement, and bonding program files. Managers and staff have open-door policies for any segment of the public to discuss issues that may arise.

The KFO meets with individual citizens, during the permitting process, who have expressed concerns or have an interest in a pending permit. The purpose of these meetings is to answer questions relative to the concerns and to provide information/explanations with respect to the permitting actions at issue.

Public participation opportunities have been provided to the public in the review of 15 new permit applications processed/issued by KFO this year.

- **Industry Meetings**

- Pre-Permit Application Meetings with the Industry.

KFO continues to meet with individual coal companies or their consultant prior to submittal of a permit application to discuss potential issues that might arise during the permitting process and to seek resolution of concerns/problems that address regulatory requirements as well as the needs of the industry stakeholder. Because of the success of this initiative and the acceptance of this endeavor by the permit applicants, consultants, other participating agencies and OSM, this activity has become routine in the normal permitting process.

IV. MAJOR ACCOMPLISHMENTS/ISSUES/INNOVATIONS IN THE TENNESSEE FEDERAL PROGRAM

- **Identification of Potential Problems**

To assist operators in preventing environmental problems and reduce follow-up inspection hours, after issuance of notices of violation, the field office continues to place additional emphasis on inspectors identifying and advising operators of potential problems observed during inspections before they became citable violations. This initiative has improved compliance.

- **Water Quality Evaluation Inspections**

The Knoxville Field Office continues to perform water quality evaluation inspections to identify potential problem water producers. The purpose of these inspections is to determine if the approved toxic material handling plans (TMHP) are effective in preventing problem water drainage. Information from these inspections is used to determine if mining practices need to be modified or if permit revisions are required.

During evaluation year 2005, KFO conducted two follow-up inspection/evaluations. The sites had been inspected in the past and either the team could not determine if the site would be a problem water producer due to lack of information or the team needed to check on the operator's progress with TMHP changes. The team continued to monitor Skyline Coal Company permits nos. 2846 and 2959 because of noncompliant effluent discharges of manganese and seeps that were identified below the minesite in FY 2001. The company revised the permit and implemented a plan for the mitigation of the noncompliant discharges. Additional monitoring of the site is required to ensure that the revision works. The team also re-inspected Cumberland Coal Company's permit no. 2981 to determine the progress made toward handling water quality problems previously identified. The company has obtained approval of permit revisions and is working closely with the Tennessee Division of Water Pollution Control and OSM's Technical Group to mitigate the water quality problems.

- **Abandoned Mine Land Projects in Tennessee**

The Office of Surface Mining allocates approximately one million dollars of the Secretary of Interior's discretionary funding to reclaim high priority abandoned mine land sites in Tennessee annually. High priority refers to sites that are considered hazardous to the health and safety of the public or are causing harm to the environment. The OSM's Federal Reclamation Program staff from the Appalachian Regional Coordinating Center in Pittsburgh, Pennsylvania works very closely with the Tennessee Department of Environment and Conservation

(TDEC), Land Reclamation Section, in selecting and reclaiming the sites. The State and OSM use the “cooperative agreement” method where OSM funds the projects and the State’s staff designs the projects, hires contractors to perform the work, and ensures the work is performed as designed.

- **Appalachian Clean Streams Program (ACSP)**

The Federal Program in Tennessee participates in the Appalachian Clean Streams Program as facilitator with local watershed efforts to mitigate the effects of acid mine drainage being discharged into watersheds from abandoned coal mines. The TDEC completed on-the-ground work using monies provided by local, State, and Federal agencies and OSM’s Abandoned Mine Land (AML) fund. As in past fiscal years, OSM provided summer interns during FY 2005 to support the efforts of watershed groups in Tennessee. The five designated ACSP watersheds are:

North Chickamauga Creek. This is a watershed near Chattanooga that has a formal citizen’s group leading the clean-up effort. The North Chickamauga Creek Conservancy has been the driving force behind the watershed restoration activities, which include AMD treatment systems, land acquisitions for watershed preservation, stream bank stabilization projects, water monitoring programs, and Greenway trails and pathways. To date, cooperating agencies, private and corporate contributors, and in-kind services from the local communities have provided over five million dollars toward the restoration and preservation activities.

Bear Creek. This is a watershed near Oneida in Scott County that flows into Big South Fork National River and Recreation Area. The TDEC installed numerous passive treatment systems at abandoned coal mines in the watershed and additional facilities will be installed in the future as funds become available. The TDEC, the Environmental Protection Agency, the Natural Resources and Conservation Service (NRCS) and OSM have contributed \$2,433,235.00 in funds and in-kind services.

Big Laurel Creek. This is a watershed in Fentress County, Tennessee. The Tennessee Wildlife Resources Agency (TWRA), in cooperation with the TDEC is taking the lead for the mitigation projects. The State agencies have installed several passive treatment systems in the watershed using State and OSM’s AML funds.

Coal Creek. This watershed is about 30 miles north of Knoxville and the creek flows through Lake City and empties into the Clinch River, one of Tennessee’s most used trout fisheries. The mission statement of the Coal Creek Watershed Foundation is to “Improve the quality of Life in the Coal Creek Watershed”. The group was formed in late 1999 and has already been very active with clean up, educational, and outreach efforts. Many State, local, and Federal agencies are initiating studies in the watershed to determine the best approaches to meet the goals of the group.

Big Creek. This watershed is about 40 miles north of Knoxville and empties into Norris Lake. The water intake for the City of LaFollette is also in Big Creek. The main tributaries are Thompson and Ollis Creeks and these watersheds were extensively mined and heavily impacted by acid mine drainage from the abandoned coal mines. NRCS, TVA and TDEC are currently collecting water quality data on the watershed and its tributaries.

- **White Oak Reforestation Project**

The White Oak Reforestation Project is located in Campbell County, Tennessee. KFO has developed a partnership with Gatliff Coal Company and the Corbin High School Environmental Science class, with a focus on implementing current reforestation technology.

The initial phase of this project was to establish a 130-acre Forestry Reclamation Approach (FRA) demonstration area on a mine site reclaimed by Gatliff Coal Company. KFO staff will be conducting training courses with the high school students in basic forestry, tree identification, and FRA technology. The high school students will also be involved in sampling and data collection on permanent reforestation plots established on the project area to determine the survival rates and growth rates of the planted trees.

The long-range plans are to establish a permanent demonstration area to show the application of the FRA. One of the main benefits of this partnership will be to provide real world applications for the environmental principals that will be taught to the high school students. Emphasis will be placed on explaining the environmental benefits that can be realized through creating highly productive forestland on reclaimed mine sites. These multiple benefits include restoration of clean water and air resources, carbon sequestration, soil conservation, wildlife and endangered species habitat, recreational opportunities, commercial forestry, and other economic opportunities based on forest products.

- **Appalachian Regional Reforestation Initiative**

Established in 2004, the Appalachian Regional Reforestation Initiative (ARRI) is a cooperative effort among the States of Kentucky, Maryland, Ohio, Pennsylvania, Virginia and West Virginia; the Office of Surface Mining, including the Tennessee Federal Program, their partners in industry, environmental organizations, academia, local, State and Federal government agencies and local citizenry. KFO staff serve as members of the ARRI Core Team, and as Co-Liaison for the ARRI Academic Team. The goals of the initiative are to plant more high-value hardwood trees on reclaimed coal mined lands in Appalachia and to increase the survival rates and growth rates of the planted trees. Forestry research has proven that these goals can be accomplished by reclaiming coal mines using the following five-step FRA:

- Create a suitable rooting medium for good tree growth that is less than 4 feet deep and comprised of topsoil, weathered sandstone and/or the best available material.
- Loosely grade the topsoil or topsoil substitutes established in step one to create a non-compacted growth medium.
- Use native and non-competitive ground covers that are compatible with growing trees.
- Plant two types of trees; early succession species for wildlife and soil stability and commercially valuable crop trees.
- Use proper tree planting techniques.

FRA technology is currently being used to reclaim a number of active and abandoned mine sites in each of the seven states within the Appalachian Region. This ongoing initiative will promote reforestation through training, information sharing and research.

- **KFO Reforestation Initiative**

The KFO has continued to develop the KFO Reforestation Initiative. KFO has issued policy and guidelines to encourage the selection of post-mining land uses, which include the planting of trees, and to promote the use of FRA technology. KFO staff has coordinated meetings and conducted reforestation field trips with University of Tennessee staff and students, Tennessee Division of Forestry, landowners, and coal industry representatives. This initiative is being closely coordinated with the larger Appalachian Regional Reforestation Initiative.

KFO will promote and strive to implement the use of FRA technology in permits issued where tree planting is required. KFO will continue to conduct meetings with industry representatives, consultants, landowners and KFO technical and inspection staff to educate the individuals in the changes that must occur to successfully implement FRA. KFO also plans to develop a reforestation web page that will include reforestation success stories in Tennessee as well as technical information relating to the current FRA technology.

- **Summary of Successes**

KFO continues to improve its relationships with its customers and stakeholders by providing increased opportunities for participation in the regulatory functions of the Field Office and by meeting with the State, citizens, landowners, and industry to discuss concerns and to foster better working relationships. The

results have produced enhancements in compliance with respect to operators anticipating and addressing potential problems before they develop into violations. There have also been enhancements in communications with operators and landowners, based on industry feedback since the outreach efforts began. This feedback has consisted of improved oral communications as well as input in draft (written) field office policies and procedures that affect industry operations.

- **Litigation**

Cane Tennessee, Inc. et al. v. United States, No. 96-237L; *Colten, Inc. et al. v. United States*, No. 00-513L (Fed. Cl.) (consolidated)

Plaintiffs claim permanent and temporary takings of their coal interests based on OSM's permitting actions and the Secretary of the Interior's designation of certain lands as unsuitable for surface coal mining operations. The subject property is located in close proximity to Fall Creek Falls State Park in Tennessee. On June 27, 2003, the Court of Federal Claims granted the government's motion for summary judgment, dismissing the claims of plaintiffs Cane and Colten. On October 3, 2003, the court granted Cane's motion for reconsideration. (Colten did not seek reconsideration.) On reconsideration, the court determined that there may be genuine issues of material fact that preclude summary judgment against Cane on the issue of "economic impact" and also ordered supplementary briefing and additional factual development on the issue of investment-backed expectations. The government filed a renewed motion for summary judgment on July 29, 2004. On January 25, 2005, the court granted in part and denied in part the government's renewed motion. The court agreed with the government that Cane lacked "reasonable investment-backed expectations" but concluded there are genuine issues of material fact on the issue of "economic impact" of the government action and ordered a trial on that issue. After a trial on the economic impact issue, the court, on October 27, 2005, issued a decision in favor of the government. The court found that Cane's property had significant timber value after the lands unsuitable designation, and, therefore, the economic impact of the designation was not sufficiently serious to constitute a taking. Weighing this factor with the court's previous rulings (particularly the fact that Cane lacked reasonable investment-backed expectations), the court held that the designation did not effect a regulatory taking.

Mary Anne Wyatt et al. v. United States, No. 02-945L (Fed. Cl.)

On August 7, 2002, plaintiffs filed a complaint alleging permanent and temporary takings of their 3.5% coal royalty interest in the same property at issue in the *Cane* and *Colten* cases (*see above*) based on the same lands unsuitable designation at issue in *Cane* and *Colten*. They claimed that the lands unsuitable designation effected a permanent taking and that a temporary taking occurred during the pendency of the lands unsuitable petition that requested the designation. On May 28, 2004, the court found the government liable for a

categorical, permanent taking of some of the plaintiffs' property interests. On October 29, 2004, the court denied the government's motion for reconsideration.

On February 25, 2005, the court, with the consent of the parties, issued an order deconsolidating this case from the *Cane* and *Colten* cases and reassigning the case to an alternative dispute resolution settlement judge. After a settlement conference, the parties agreed to the appropriate amount of just compensation. The parties filed a joint stipulation for compromise settlement on September 19, 2005, and the court dismissed the case on September 21. This case is now closed.

Appolo Fuels, Inc. v. United States, No. 03-5088 (Fed. Cir.)

On February 28, 2005, the Supreme Court denied plaintiff's petition for a *writ of certiorari* in this regulatory takings case. Plaintiff sought Supreme Court review of an August 30, 2004, decision of the U.S. Court of Appeals for the Federal Circuit, in which the appeals court affirmed the U.S. Court of Federal Claims' grant of summary judgment in favor of the United States. On October 7, 2004, the Federal Circuit denied plaintiff's petitions for rehearing and rehearing *en banc*. Plaintiff claimed alleged permanent and temporary takings of its coal reserves and mining rights based on OSM's designation of the watershed of Little Yellow Creek in Claiborne County, Tennessee, as unsuitable for surface coal mining (but not for underground mining from portals outside the petition area), as well as OSM's alleged delay in deciding the petition that requested the designation. The designated area encompasses Fern Lake, the sole drinking water supply for the city of Middlesboro, KY. This case is now closed.

Benchmark Res. Corp. et al. v. United States, No. 03-178L (Fed. Cl.)

On January 24, 2003, plaintiffs filed a complaint alleging a regulatory taking of their coal reserves and mining rights based on OSM's March 24, 1987, designation of parts of the Rock Creek watershed in Hamilton and Bledsoe Counties, Tennessee, as unsuitable for surface coal mining operations. Plaintiffs filed an amended complaint on October 14, 2005. Plaintiffs allegedly own approximately 142,000,000 tons of coal affected by the designation. Plaintiffs seek just compensation in an amount "not less than \$846,385,000" (the alleged value of their coal), as well as awards of interest, attorney fees, and costs. On March 17, 2005, the court denied the government's motion to dismiss. In its motion, the government had argued that plaintiffs' claims, having been filed nearly 16 years after the relevant government action, are barred by the applicable six-year statute of limitations. On October 31, 2005, the court issued a scheduling order, which calls for all fact discoveries to be completed by March 31, 2006. The government's motion to dismiss the claims of plaintiff Sunrise Holding, Inc. is due by April 28, 2006; plaintiffs' opposition is due by May 26, 2006, and the government's reply is due by June 9, 2006.

National Mining Ass'n v. Norton, No. 00-0549 (E.D. Tenn.)

The National Mining Association (NMA) challenges OSM's Knoxville Field Office's issuance of Field Office Policy Memorandum No. 37, which establishes procedures for revising permits and increasing reclamation bonds where there is unanticipated acid mine drainage (AMD). The plaintiff asserts that the Tennessee federal program had previously not recalculated the bond upon the occurrence of AMD and had released the bond even in cases where continued water treatment could be required to meet applicable effluent limitations. Accordingly, NMA argues that the Policy Memorandum's new procedures for recalculating bond amounts to account for long-term treatment of AMD violate both the Administrative Procedure Act and the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The parties are currently engaged in settlement negotiations.

Save Our Cumberland Mountains, Inc. et al. v. Norton, No. 03-462 (E.D. Tenn.)

On September 4, 2003, Save Our Cumberland Mountains, the Southern Appalachian Biodiversity Project, Appalachian Voices, and the Sierra Club (hereinafter SOCM) filed, against Secretary Norton and OSM, a six-count complaint for declaratory and injunctive relief together with a motion for preliminary injunction alleging numerous violations of the National Environmental Policy Act in connection with OSM's approval of a permit application submitted in July 2002 by the Robert Clear Coal Corporation (RCCC). On Friday, September 26, 2003, the District Court Judge granted the motion of RCCC to intervene in the case. On October 31, 2003, the court issued an order and memorandum opinion denying plaintiffs' motion for a preliminary injunction. The court found that OSM's decision to issue an "environmental assessment" and "finding of no significant impact" and not to proceed with an "environmental impact statement" was not arbitrary and capricious based on the record that was before the court. On February 23, 2005, after briefing and argument on plaintiffs' motion for summary judgment, the court entered a decision dismissing all of plaintiffs' claims with prejudice. On April 21, 2005, plaintiffs filed a notice of appeal with the U.S. Court of Appeals for the Sixth Circuit. Briefing on the appeal has been completed.

Tennessee Clean Water Network et al v. Norton, No. 05-214 (E.D. Tenn.)

On April 27, 2005, the Tennessee Clean Water Network, Save Our Cumberland Mountains, the Southern Appalachian Biodiversity Project, Appalachian Voices, and the Sierra Club filed, against Secretary Norton and OSM, a seventeen-count complaint for declaratory and injunctive relief together with a motion for a preliminary injunction alleging numerous violations of the National Environmental Policy Act (NEPA) and the Surface Mining Control and Reclamation Act of 1977 (SMCRA). At issue in this case is whether OSM complied with NEPA when it issued a "supplemental environmental assessment" as part of a revision to a SMCRA permit to the National Coal Corporation (successor to Robert Clear Coal Corporation), on March 2, 2005, to conduct a

cross-ridge mining operation. Plaintiffs challenge OSM's decision to prepare only a "supplemental environmental assessment" and "finding of no significant impact" and assert that it should have prepared an "environmental impact statement." A similar suit was filed when the mining permit was initially issued (*see* previous item). Several pleadings have now been filed by the government: a motion for partial dismissal; a response to plaintiffs' motion for preliminary injunction; and a reply to plaintiffs' motion for leave to take deposition. The discovery issue was before a Magistrate Judge, who issued an order on July 29, 2005, denying plaintiffs' motion. The hearing on plaintiffs' motion for preliminary injunction took place on August 24, 2005. On October 4, 2005, the district court entered an order, with accompanying memorandum opinion, denying the plaintiffs' motion for preliminary injunction; granting the government's motion for dismissal of the SMCRA counts; and denying the government's motion to strike extra-record exhibits filed by the plaintiffs.

V. TECHNICAL ASSISTANCE

KFO continues to have a number of its employees, primarily the Technical Group staff, serving on different projects, teams, and assignments that are of common interest to the Appalachian Region and to all of OSM. Several of these technical assistance activities are cooperative efforts with Program Support Division and ARCC. For the evaluation year, the Technical Group has spent approximately 91.6 percent of its time on Federal program activities and 8.4 percent on technical assistance activities. The projects/activities, which involve KFO employees, are as follows:

- Experimental Practices in Kentucky, Virginia and Ohio.
- West Virginia Mountaintop Environmental Impact Statement
- National Blasting Work Group
- Instructors for BTTI Training Courses
- Instructors for TIPS Training Courses
- Appalachian Regional Reforestation Initiative
- KFO Reforestation Initiative
- Technical Support to OSM's Lexington and Charleston Field Offices for Federal Lands Issues
- Technical Support to Bureau of Land Management and Tennessee Valley Authority on Federal Lands issues such as leasing and NEPA requirements
- TIPS Hydrology Software Committee

- Hydrologic Issues Team for PHC/CHIA
- West Virginia Citizen Complaint
- Slurry Impoundment Review for KY
- White Oak Reforestation Project

VI. 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

To further the concept of reporting end results, the findings from performance standard evaluations are being collected for a national perspective in terms of the number and extent of observed off-site impacts and the number of acres that have been mined and reclaimed which meet the bond release requirements for the various phases of reclamation.

A. Off-Site Impacts

Active Sites:

One of the intents of SMCRA is to prevent adverse affects to the public and to the environmental resources adjacent to a permitted surface coal mining operation. While conducting complete and partial inspections during EY 2005 KFO Reclamation Specialists evaluated all active minesites for off-site impacts. Off-site impacts resulting from SMCRA violations were directly reported via the “Minesite Evaluation Inspection Report” (MEIR). The MEIR data was transferred to a database and a summary report was developed for year-end reporting purposes. In addition to MEIR data collection, citizen complaint files were evaluated and interviews with individual inspectors were conducted to determine if off-site impacts from other sources had occurred.

Twelve permits were identified as having 31 people, land and water impacts. Nineteen off-site impacts to water (13 minor, 5 moderate and 1 major) occurred due to changes in water chemistry during mining or sediment laden run-off leaving the sites for a short distances. The major impact to water occurred when a basin embankment failed, resulting in significant sediment deposits to the receiving stream. Seven impacts to land (2 minor and 5 moderate) resulted from slides, encroachment off permits and impacts from uncontrolled blasting. Five minor impacts to people resulted from blasting noise and vibration, an instance where disturbance occurred within 100 feet of a public road and another instance where uncontrolled runoff drained into a public road.

Some violations were considered to be permittee negligence. For this reason, improvements in the regulatory functions or processes are being reviewed.

Bond Forfeiture Sites

KFO is responsible for conducting inspections of bond-forfeited sites at reduced frequencies including at least one complete inspection per year. Many of these sites have remained in abandoned status for several years and natural vegetative processes have stabilized the disturbances. KFO Reclamation Specialists were asked to report off-site impacts resulting from EY 2005 complete inspections.

Three off-site impacts (two minor and one moderate) were reported during EY 2005. All three impacts resulted from low pH runoff discharges into receiving streams.

B. Bond Releases

During the period October 1, 2004, through September 30, 2005, KFO processed 29 bond release applications. A total of 27 release actions were approved, consisting of 4 Phase I, 9 Phase II, and 14 Phase III releases. These actions resulted in returning all or a portion of the bond on 3,491 acres of reclaimed mine lands (see attached table). During this same period 1 bond release application was disapproved and 1 bond release application was withdrawn.

APPENDIX A:

These tables present data pertinent to mining operations and Federal regulatory activities within Tennessee. Unless otherwise specified, the reporting period for the data contained in all tables is the same as the evaluation year. Additional data used by the Knoxville Field Office in its evaluation of performance is available for review in the evaluation files maintained by the Knoxville OSM Office.

TABULAR SUMMARY OF CORE DATA TO CHARACTERIZE THE PROGRAM

Table 1: Coal Production in Tennessee

Table 2: Knoxville Field Office (KFO) Inspectable Units

Table 3: KFO Permitting Activity in Tennessee

Table 4: Off-Site Impacts in Tennessee

Table 4A: Off-Site Impacts in Georgia

Table 5: Annual State Mining and Reclamation Results for Tennessee

Table 5A: Annual State Mining and Reclamation Results for Georgia

Table 7: KFO Bond Forfeiture Activity

Table 8: Knoxville Field Office Staffing

Table 9: Funds Granted to State by OSM (*Not Applicable to Tennessee*)

Table 10: KFO Inspection Activity in Tennessee

Table 10A: KFO Inspection Activity in Georgia

Table 11: KFO Enforcement Activity in Tennessee

Table 11A: KFO Enforcement Activity in Georgia

Table 12: Lands Unsuitable Activity

TABLE 1

COAL PRODUCTION IN TENNESSEE (Millions of short tons)			
Period	Surface Mines	Underground mines	Total
Coal production ^A for entire State:			
Annual Period			
2002	2.052	1.113	3.165
2003	1.907	0.657	2.564
2004	2.137	0.839	2.976
Total	6.096	2.609	8.705

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. **Provide production information for the latest three full calendar years to include the last full calendar year for which data is available.**

TABLE 2

KFO INSPECTABLE UNITS												
As of September 30, 2005												
Coal mines And related facilities	Number and status of permits								Insp. Units^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						
STATE AND PRIVATE LANDS REGULATORY AUTHORITY: KFO												
Surface mines	2	49	2	8	95	33	99	90		37	230	267
Underground mines	1	33	0	9	20	21	21	63		1	11	12
Other facilities	1	38	0	4	2	5	3	47		1	22	23
Subtotals	4	120	2	21	117	59	123	200	0	39	263	302
FEDERAL LANDS REGULATORY AUTHORITY: KFO												
Surface mines	0	0	0	0	0	1	0	1		0	2	2
Underground mines	0	4	0	0	0	0	0	4		0	1	1
Other facilities	0	0	0	0	0	0	0	0	0	0	0	0
Subtotals	0	4	0	0	0	1	0	5	0	0	3	3
ALL LANDS^B												
Surface mines	2	49	2	8	95	34	99	91		37	232	269
Underground mines	1	37	0	9	20	21	21	67		1	12	13
Other facilities	1	38	0	4	2	5	3	47		1	22	23
Totals	4	124	2	21	117	60	123	205	0	39	266	305
Average number of permits per inspectable unit (excluding exploration sites)								<u>1</u>				
Average number of acres per inspectable unit (excluding exploration sites)								<u>93</u>				
Number of exploration permits on State and private lands:						<u>0</u>		On Federal lands ^C :			<u>N/A</u>	
Number of exploration notices on State and private lands:						31		On Federal lands ^C :			N/A	
IP: Initial regulatory program sites												
PP: Permanent regulatory program sites												
^A When a unit is located on more than one type of land, include 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

KFO PERMITTING ACTIVITY IN TENNESSEE												
As of September 30, 2005												
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	5	2	383	2	2	49	0	0	0	7	4	432
Renewals	2	0	0	3	3	58	5	3	97	10	6	155
Transfers, sales and assignments of permit rights	11	2		8	8		11	7		30	17	
Small operator Assistance	0	0		0	0		0	0		0	0	
Exploration permits	0	0		0	0		0	0		0	0	
Exploration notices ^B		15			0			0			15	
Revisions (exclusive of incidental boundary revisions)		35			7			11			53	
Incidental boundary revisions		11	72		3	18		4	57		18	147
Totals	18	65	455	13	23	125	16	25	154	47	113	734

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

25

^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.

TABLE 4

OFF-SITE IMPACTS IN TENNESSEE														
RESOURCES AFFECTED			People			Land			Water			Structures		
DEGREE OF IMPACT			minor	moderate	major	minor	Moderate	major	minor	moderate	major	minor	moderate	Major
TYPE OF IMPACT AND TOTAL NUMBER OF EACH TYPE	Blasting		3				2		2	2				
	Land Stability		1											
	Hydrology								11	3	1			
	Encroachment		1			2	2							
	Other						1							
	Total	0	5	0	0	2	5	0	13	5	1	0	0	0
Total number of inspectable units:												182		
Inspectable units free of off-site impacts:												170		
OFF-SITE IMPACTS ON BOND FORFEITURE SITES														
RESOURCES AFFECTED			People			Land			Water			Structures		
DEGREE OF IMPACT			minor	moderate	major	minor	Moderate	major	minor	moderate	major	minor	moderate	Major
TYPE OF IMPACT AND TOTAL NUMBER OF EACH TYPE	Blasting													
	Land Stability													
	Hydrology								2	1				
	Encroachment													
	Other													
	Total	0	0	0	0	0	0	0	0	2	1	0	0	0
Total number of inspectable units:												171		
Inspectable units free of off-site impacts:												168		

Refer to the report narrative for complete explanation and evaluation of the information provided by this table.

TABLE 4-A

OFF-SITE IMPACTS IN GEORGIA													
RESOURCES AFFECTED		People			Land			Water			Structures		
DEGREE OF IMPACT		minor	moderate	major	minor	Moderate	major	minor	moderate	major	minor	moderate	Major
TYPE OF IMPACT AND TOTAL NUMBER OF EACH TYPE	Blasting												
	Land Stability												
	Hydrology												
	Encroachment												
	Other												
	Total	0	5	0	0	0	0	0	0	0	0	0	0
Total number of inspectable units:					<u>0</u>								
Inspectable units free of off-site impacts:					<u>0</u>								
OFF-SITE IMPACTS ON BOND FORFEITURE SITES													
RESOURCES AFFECTED		People			Land			Water			Structures		
DEGREE OF IMPACT		minor	moderate	major	minor	moderate	major	minor	moderate	major	minor	moderate	Major
TYPE OF IMPACT AND TOTAL NUMBER OF EACH TYPE	Blasting												
	Land Stability												
	Hydrology												
	Encroachment												
	Other												
	Total	0	0	0	0	0	0	0	0	0	0	0	0
Total number of inspectable units:					<u>6</u>								
Inspectable units free of off-site impacts:					<u>6</u>								

Refer to the report narrative for complete explanation and evaluation of the information provided by this table.

TABLE 5

ANNUAL STATE MINING AND RECLAMATION RESULTS FOR TENNESSEE		
Bond release phase	Applicable performance standard	Acreage released during this evaluation period
Phase I	- Approximate original contour restored - Topsoil or approved alternative replaced	520.00
Phase II	- Surface stability - Establishment of vegetation	1,357.00
Phase III	- Post-mining land use/productivity restored - Successful permanent vegetation - Groundwater recharge, quality and quantity Restored - Surface water quality and quantity restored	1,614.00
	Bonded Acreage Status^A	Acres
Total number of acres bonded at end of last review period (September 30, 2004)		16,409.00
Total number of acres bonded as of September 30, 2005		15,314.00
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)		0.00

^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 5-A

ANNUAL STATE MINING AND RECLAMATION RESULTS FOR GEORGIA		
Bond release phase	Applicable performance standard	Acreage released during this Evaluation period
Phase I	- Approximate original contour restored - Topsoil or approved alternative replaced	0
Phase II	- Surface stability - Establishment of vegetation	0
Phase III	- Post-mining land use/productivity restored - Successful permanent vegetation - Groundwater recharge, quality and quantity Restored - Surface water quality and quantity restored	0
Bonded Acreage Status^A		Acres
Total number of acres bonded at end of last review period (September 30, 2004)		0
Total number of acres bonded during this evaluation year		0
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)		0.00

^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 7

KFO 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, 2004 (end of previous evaluation year).	6	332.00
Sites with bonds forfeited and collected during Evaluation Year 2005 (current year). This was later transferred to a cash bond account and released as it was replaced with an acceptable replacement bond.	0	0.00
Sites with bonds forfeited and collected that were re-permitted during Evaluation Year 2005 (current year).	0	0.00
Sites with bonds forfeited and collected that were reclaimed during Evaluation Year 2005 (current year).	0	0.00
Sites with bonds forfeited and collected that were unreclaimed as of September 30, 2005 (end of current year). ^A	6	332.00
Sites with bonds forfeited but uncollected as of September 30, 2005 (end of current year).	0	0.00
Surety/Other Reclamation (In Lieu of Forfeiture)		
Sites being reclaimed by surety/other party as of September 30, 2004 (end of previous evaluation year). ^B	2	45.00
Sites where surety/other party agreed to do reclamation during Evaluation Year 2005 (current year)	0	0.00
Sites being reclaimed by surety/other party that were re-permitted during Evaluation Year 2005 (current year).	0	0.00
Sites with reclamation completed by surety/other party during Evaluation Year 2005 (current year). ^C	2	45.00
Sites being reclaimed by surety/other party as of September 30, 2005 (current evaluation year). ^B	0	0.00
^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		

TABLE 8

KFO STAFFING (Full-time equivalents at the end of evaluation year)	
Function	EY 2005
Regulatory Program	
Permit review	12.00
Inspection	9.00
Other (administrative, fiscal, personnel, etc.)	16.00
Regulatory Program Total	37.00
AML Program Total	
TOTAL	37.00

TABLE 10

STATE OF TENNESSEE KFO INSPECTION ACTIVITY		
Period: October 1, 2004 - September 30, 2005		
Inspectable Unit Status	Number of Inspections Conducted	
	Complete	Partial
Active*	503	828
Inactive*	94	15
Abandoned*	132	31
Total	729	874
Exploration	80	62

TABLE 10-A

STATE OF GEORGIA KFO INSPECTION ACTIVITY		
Period: October 1, 2004 - September 30, 2005		
Inspectable Unit Status	Number of Inspections Conducted	
	Complete	Partial
Active*	0	0
Inactive*	0	0
Abandoned*	3	0
Total	3	0
Exploration	0	0

TABLE 11

STATE OF TENNESSEE KFO ENFORCEMENT ACTIVITY		
Period: October 1, 2004 - September 30, 2005		
Type of Enforcement Action	Number of Actions*	Number of Violations*
Notice of Violation	46	71
Failure-to-Abate Cessation Order	2	2
Imminent Harm Cessation Order	1	1

**Does not include violations that were vacated.*

TABLE 11-A

STATE OF GEORGIA KFO ENFORCEMENT ACTIVITY		
Period: October 1, 2004 - September 30, 2005		
Type of Enforcement Action	Number of Actions*	Number of Violations*
Notice of Violation	0	0
Failure-to-Abate Cessation Order	0	0
Imminent Harm Cessation Order	0	0

* *Does not include those violations that were vacated.*

TABLE 12

KFO LANDS UNSUITABLE ACTIVITY			
Period: October 1, 2004 - September 30, 2005			
Number of Petitions Received	0		
Number of Petitions Accepted	0		
Number of Petitions Rejected	0		
Number of Decisions Declaring Lands Unsuitable	0	Acreage Declared as Being Unsuitable	0
Number of Decisions Denying Lands Unsuitable	0	Acreage Denied as Being Unsuitable	0

OSM OFFICES RESPONSIBLE FOR FEDERAL AND INDIAN PROGRAM STATES MUST ALSO COMPLETE THIS TABLE.