

*October, 2006*

***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 2006**

**(October 1, 2005, to September 30, 2006)**

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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 In Tennessee, OSM implemented the Federal regulatory program in October 1984 when the State repealed its surface mining law.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, 2005, to September 30, 2006. 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](http://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 63.5 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 fiscal year 2005. Coal production declined from a high of 11,260,000 tons in 1972 to 2.564 million tons in 2003. Coal production has increased since calendar year 2003 with 3.385 million tons reported during calendar year 2005. Currently, there are 24 active coal-producing mines that have permitted 9,756 acres for mining. Underground mines have permitted 201 acres (excluding shadow areas) at 8 active mines, and surface operations have permitted 9,555 acres at 16 active mines as of September 30, 2006.

### **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 2 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.

- **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 2006 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. In evaluation year 2006, TDEC installed an additional passive water treatment project to treat water from abandoned underground mines and they also issued a contract to reclaim several acres of spoil and highwall in the watershed. Also, the Knoxville Field Office continued to provide

water monitoring assistance to the watershed group's partners in order to prioritize water improvement project needs and to document the effects the water improvement projects have on the creek. In May, 2006, field office personnel helped sponsor an outreach event and presented an exhibit at the watershed group's annual Challenge Race. The race is intended to increase public awareness and interest in watershed improvement activities that the group performs and to increase public involvement in the group's efforts.

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. In evaluation year 2006, OSM approved two watershed cooperative agreement projects that will be used to reclaim toxic spoils and treat water from abandoned mines in the areas. The work will start in evaluation year 2007.

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. During 2006, TDEC performed maintenance activities on two passive treatment facilities. Additional limestone was added to each facility in order to increase the alkalinity and buffering capacity of the water flowing through the treatment cells. Field office personnel also continued to provide water monitoring assistance to the partners in the watershed improvement group in order to prioritize water improvement project needs.

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 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. During 2006, the Knoxville Field Office participated in the Coal Creek Miners' Festival held in Lake City, Tennessee. Field office personnel provided information to the public about OSM's Appalachian Clean Streams Program and the activities performed to mitigate the effects of acid mine drainage.

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.

In evaluation year 2006, Knoxville Field Office personnel provided water monitoring assistance to partnership members that use the data to document water quality conditions and to identify water improvement project needs. OSM also approved a watershed cooperative agreement project to initiate treatment of sources of toxic run-off. This will be the first of multi-year projects in an effort to clean up the streams that were heavily impacted by drainage from abandoned mines.

- **White Oak Reforestation Project**

The White Oak Reforestation Project is located in Campbell County, Tennessee. 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 in 2002.

During 2006 the project area was used to show effective reforestation to coal companies and OSM staff to encourage the use of the FRA on other mine sites in Tennessee. Emphasis is 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 served 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.

During 2006 KFO staff accomplished the following;

- Co-author for Forest Reclamation Advisory No. 1 and No. 2, which was a cooperative effort with the ARRI Academic Team.
- Co-author of a publication entitled, “Reforestation and Mine Land Reclamation” which was a cooperative effort between OSM and DOE.
- Coordinated a meeting between Gatliff Coal Company and National Coal Company to tour the White Oak Reforestation Project.
- Conducted Forestry Reclamation Approach Training with the Tennessee Wildlife Resources Agency.

- Conducted ARRI Forestry Reclamation Approach Training at the Professional Forestry Continuing Education Workshop, conducted by the University of Tennessee Department of Forestry.

- **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.

**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.

On November 22, 2006, the U.S. Court of Federal Claims granted the government's motion to dismiss the claims of all plaintiffs (Benchmark Resources Corporation, Gentry Corporation, and Sunrise Holding, Inc.) in this regulatory takings case. In its November 22 opinion, the court held that: (1) the claims of all plaintiffs are not ripe for review because plaintiffs have never sought permits to mine the portions of their property that are unaffected by OSM's designation and (2) the claim of Sunrise Holding, Inc., is barred by the applicable six-year statute of limitations. (The court previously denied the government's motion to dismiss the claims of plaintiffs Benchmark Resources and Gentry on statute of limitations grounds.) The court dismissed plaintiffs' claims without prejudice.

**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). On April 6, 2006, OSM published a proposed rule in the *Federal Register* that provides for the use of trust funds and annuities to fund the treatment of postmining pollutional discharges from surface coal mining operations and thus satisfy performance

bond obligations for treatment of those discharges. A public hearing on the proposal was held on June 1, 2006, and written comments were accepted until June 30, 2006. A final rule that modifies the proposal in response to the comments is anticipated to be published in the *Federal Register* in 2007. The parties continue settlement negotiations.

**Save Our Cumberland Mountains, Inc. et al. v. Norton**, No. 3:03-CV-462 (E.D. Tenn.); No. 05-5663 (6<sup>th</sup> Cir.)

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. In a unanimous decision filed on June 29, 2006, the Sixth Circuit affirmed the District Court's decision which dismissed the plaintiffs' case and upheld OSM's NEPA decisions. On August 14, 2006, plaintiffs/appellants filed a petition for an en banc and panel rehearing.

**Tennessee Clean Water Network et al v. Kempthorne**, No. 3:05-CV-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. On April 20, 2006, plaintiffs filed a motion asking for leave to amend their complaint. On June 20, 2006, federal defendants filed a response opposing plaintiffs' motion on grounds that: (1) many of plaintiff's new claims are still the subject of on-going agency action and are not final; (2) on those claims that are final, plaintiffs have failed to exhaust administrative remedies, and (3) some of plaintiffs' claims involve discretionary actions by OSM and therefore the Court does not have jurisdiction to hear those claims under the citizen suit provisions of SMCRA. On October 20, 2006, the District Court issued an Order allowing plaintiffs to amend their complaint, but allowing them to add only new NEPA counts against the federal defendants. On December 14, 2006, federal defendants filed their Answer. The parties are to file Motions for Summary Judgment by April 16, 2007, with all responses filed by May 25, 2007, and oral arguments scheduled for June 20, 2007.

## **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:

- 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
- High Point Landslide Mitigation
- New River Mussel Survey

**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 2006 KFO Reclamation Specialists evaluated all active mine sites for off-site impacts. Off-site impacts resulting from SMCRA violations were directly reported via the AMinesite 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.

Fifteen permits (all in Tennessee) were identified as having 34 people, land and water impacts. Sixteen off-site impacts to water (12 minor and 4 moderate) occurred due to changes in water chemistry during mining or sediment laden run-off leaving the sites for short distances. Twelve impacts to land (9 minor and 3 moderate) resulted from slides, erosion, encroachment off permits and impacts from uncontrolled blasting. Six minor impacts to people resulted from blasting noise and vibration, and an instance where spoil material was placed off the approved permit.

The majority of the 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 2006 complete inspections.

Four off-site impacts (two minor and two moderate) were reported during EY 2006. All four impacts resulted from low pH runoff discharges into receiving streams.

### B. Bond Releases

During the period October 1, 2005, through September 30, 2006, KFO processed 58 bond release applications. A total of 32 release actions were approved, consisting of 8 Phase I, 11 Phase II, and 13 Phase III releases. These actions resulted in returning all or a portion of the bond on 1,937 acres of reclaimed mine lands (see attached table). During this same period 18 bond release applications were disapproved and 8 bond release applications were returned as incomplete.

## **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**

<b>COAL PRODUCTION IN TENNESSEE</b> (Millions of short tons)			
<b>Period</b>	<b>Surface Mines</b>	<b>Underground mines</b>	<b>Total</b>
Coal production <sup>A</sup> for entire State:			
Annual Period			
<b>2003</b>	1.907	0.657	<b>2.564</b>
<b>2004</b>	2.137	0.839	<b>2.976</b>
<b>2005</b>	2.183	1.202	<b>3.385</b>
<b>Total</b>	<b>6.227</b>	<b>2.698</b>	<b>8.925</b>

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

<b>KFO INSPECTABLE UNITS</b>												
<b>As of September 30, 2006</b>												
<b>Coal mines And related facilities</b>	<b>Number and status of permits</b>								<b>Insp. Units<sup>D</sup></b>	<b>Permitted acreage<sup>A</sup> (hundreds of acres)</b>		
	<b>Active or temporarily inactive</b>		<b>Inactive</b>		<b>Abandoned</b>		<b>Totals</b>					
	<b>IP</b>	<b>PP</b>	<b>Phase II bond release</b>									
			<b>IP</b>	<b>PP</b>	<b>IP</b>	<b>PP</b>	<b>IP</b>	<b>PP</b>		<b>IP</b>	<b>PP</b>	<b>Total</b>
<b>STATE AND PRIVATE LANDS REGULATORY AUTHORITY: KFO</b>												
Surface mines	2	48	1	8	95	33	98	89		35	230	265
Underground mines	1	32	0	7	20	21	21	60		1	10	11
Other facilities	1	36	0	4	2	5	3	45		1	22	23
Subtotals	4	116	1	19	117	59	122	194		37	262	299
<b>FEDERAL LANDS REGULATORY AUTHORITY: KFO</b>												
Surface mines	0	0	0	0	0	1	0	1		0	2	2
Underground mines	0	5	0	0	0	0	0	5		0	1	1
Other facilities	0	0	0	0	0	0	0	0		0	0	0
Subtotals	0	5	0	0	0	1	0	6		0	3	3
<b>ALL LANDS<sup>B</sup></b>												
Surface mines	2	48	1	8	95	34	98	90		35	232	267
Underground mines	1	37	0	7	20	21	21	65		1	11	12
Other facilities	1	36	0	4	2	5	3	45		1	22	23
<b>Totals</b>	<b>4</b>	<b>121</b>	<b>1</b>	<b>19</b>	<b>117</b>	<b>60</b>	<b>122</b>	<b>200</b>		<b>37</b>	<b>265</b>	<b>302</b>
Average number of permits per inspectable unit (excluding exploration sites)									<u>1</u>			
Average number of acres per inspectable unit (excluding exploration sites)									<u>93.79</u>			
Number of exploration permits on State and private lands:						<u>0</u>			On Federal lands <sup>C</sup> :		<u>N/A</u>	
Number of exploration notices on State and private lands:						<u>35</u>			On Federal lands <sup>C</sup> :		<u>N/A</u>	
<b>IP:</b> Initial regulatory program sites <b>PP:</b> Permanent regulatory program sites												
<sup>A</sup> When a unit is located on more than one type of land, include only the acreage located on the indicated type of land. <sup>B</sup> 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. <sup>C</sup> 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 <sup>D</sup> Inspectable Units includes multiple permits that have been grouped together as one unit for inspection frequency purposes by some State programs.												

**TABLE 3**

<b>KFO PERMITTING ACTIVITY IN TENNESSEE</b>												
<b>As of September 30, 2006</b>												
<b>Type of Application</b>	<b>Surface mines</b>			<b>Underground Mines</b>			<b>Other facilities</b>			<b>Totals</b>		
	<b>App. Rec.</b>	<b>Issued</b>	<b>Acres</b>	<b>App. Rec.</b>	<b>Issued</b>	<b>Acres<sup>A</sup></b>	<b>App. Rec.</b>	<b>Issued</b>	<b>Acres</b>	<b>App. Rec.</b>	<b>Issued</b>	<b>Acres</b>
New Permits	5	3	1,214	2	1	22	0	0	0	7	4	1,236
Renewals	1	3	1,655	1	3	55	11	2	498	13	8	2,208
Transfers, sales and assignments of permit rights	1	12		1	8		4	10		6	30	
Small operator Assistance												
Exploration permits	1	0		0	0		0	0		1	0	
Exploration notices <sup>B</sup>												
Revisions (exclusive of incidental boundary revisions)		63			8			4			72	
Incidental boundary revisions		8	266		3	1		2	55		13	322
<b>Totals</b>	<b>8</b>	<b>89</b>	<b>3,135</b>	<b>4</b>	<b>23</b>	<b>78</b>	<b>15</b>	<b>18</b>	<b>553</b>	<b>27</b>	<b>127</b>	<b>3,766</b>
OPTIONAL - Number of midterm permit reviews completed that are not reported as revisions.										<u>10</u>		
<sup>A</sup> Includes only the number of acres of proposed surface disturbance. <sup>B</sup> State approval not required. Involves removal of less than 250 tons of coal and does not affect lands designated unsuitable for mining.												

**TABLE 4**

<b>OFF-SITE IMPACTS IN TENNESSEE</b>														
<b>RESOURCES AFFECTED</b>			<b>People</b>			<b>Land</b>			<b>Water</b>			<b>Structures</b>		
<b>DEGREE OF IMPACT</b>			minor	moderate	Major	minor	Moderate	major	Minor	moderate	major	minor	moderate	Major
<b>TYPE OF IMPACT AND TOTAL NUMBER OF EACH TYPE</b>	Blasting		4			1								
	Land Stability		1											
	Hydrology					2	3		12	4				
	Encroachment					4								
	Other		1			2								
	<b>Total</b>		<b>6</b>	<b>0</b>	<b>0</b>	<b>9</b>	<b>3</b>	<b>0</b>	<b>12</b>	<b>4</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
Total number of inspectable units:						<u>180</u>								
Inspectable units free of off-site impacts:						<u>165</u>								
<b>OFF-SITE IMPACTS ON BOND FORFEITURE SITES</b>														
<b>RESOURCES AFFECTED</b>			<b>People</b>			<b>Land</b>			<b>Water</b>			<b>Structures</b>		
<b>DEGREE OF IMPACT</b>			minor	moderate	Major	minor	Moderate	major	Minor	Moderate	major	minor	moderate	Major
<b>TYPE OF IMPACT AND TOTAL NUMBER OF EACH TYPE</b>	Blasting													
	Land Stability													
	Hydrology								2	2				
	Encroachment													
	Other													
	<b>Total</b>		<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>2</b>	<b>2</b>	<b>0</b>	<b>0</b>	<b>0</b>
Total number of inspectable units:						<u>171</u>								
Inspectable units free of off-site impacts:						<u>167</u>								

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

**TABLE 4-A**

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

<b>ANNUAL STATE MINING AND RECLAMATION RESULTS FOR TENNESSEE</b>		
<b>Bond release phase</b>	<b>Applicable performance standard</b>	<b>Acreage released During this evaluation period</b>
Phase I	- Approximate original contour restored - Topsoil or approved alternative replaced	459
Phase II	- Surface stability - Establishment of vegetation	696
Phase III	- Post-mining land use/productivity restored - Successful permanent vegetation - Groundwater recharge, quality and quantity Restored - Surface water quality and quantity restored	782
	<b>Bonded Acreage Status<sup>A</sup></b>	<b>Acres</b>
Total number of acres bonded at end of last review period (September 30, 2005)		15,314.00
Total number of acres bonded as of September 30, 2006		16,550.00
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

<sup>A</sup> Bonded acreage is considered to approximate and represent the number of acres disturbed by surface coal mining and reclamation operations.

<sup>B</sup> 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**

<b>ANNUAL STATE MINING AND RECLAMATION RESULTS FOR GEORGIA</b>		
<b>Bond release phase</b>	<b>Applicable performance standard</b>	<b>Acreage released during this Evaluation period</b>
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
<b>Bonded Acreage Status<sup>A</sup></b>		<b>Acres</b>
Total number of acres bonded at end of last review period (September 30, 2005)		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

<sup>A</sup> Bonded acreage is considered to approximate and represent the number of acres disturbed by surface coal mining and reclamation operations.

<sup>B</sup> Bonded acres in this category are those that have not received a Phase III or other final bond release (State maintains jurisdiction).

**TABLE 7**

<b>KFO BOND FORFEITURE ACTIVITY (Permanent Program Permits)</b>		
<b>Bond Forfeiture Reclamation Activity by SRA</b>	<b>Number of Sites</b>	<b>Acres</b>
Sites with bonds forfeited and collected that were unreclaimed as of September 30, 2005 (end of previous evaluation year).	6	332.00
Sites with bonds forfeited and collected during Evaluation Year 2006 (current year).	0	0.00
Sites with bonds forfeited and collected that were re-permitted during Evaluation Year 2006 (current year).	0	0.00
Sites with bonds forfeited and collected that were reclaimed during Evaluation Year 2006 (current year).	0	0.00
Sites with bonds forfeited and collected that were unreclaimed as of September 30, 2006 (end of current year). <sup>A</sup>	6	332.00
Sites with bonds forfeited but uncollected as of September 30, 2006 (end of current year).	0	0
<b>Surety/Other Reclamation (In Lieu of Forfeiture)</b>		
Sites being reclaimed by surety/other party as of September 30, 2005 (end of previous evaluation year). <sup>B</sup>	0	0.00
Sites where surety/other party agreed to do reclamation during Evaluation Year 2006 (current year).	0	0.00
Sites being reclaimed by surety/other party that were re-permitted during Evaluation Year 2006 (current year).	0	0.00
Sites with reclamation completed by surety/other party during Evaluation Year 2006 (current year). <sup>C</sup>	0	0.00
Sites being reclaimed by surety/other party as of September 30, 2006 (current evaluation year). <sup>B</sup>	0	0.00
<sup>A</sup> Includes data only for those forfeiture sites not fully reclaimed as of this date. <sup>B</sup> Includes all sites where surety or other party has agreed to complete reclamation and site is not fully Reclaimed as of this date. <sup>C</sup> This number also is reported in Table 5 as Phase III bond release has been granted on these sites		

**TABLE 8**

<b>KFO STAFFING</b> (Full-time equivalents at the end of evaluation year)	
<b>Function</b>	<b>EY 2006</b>
<b>Regulatory Program</b>	
Permit review	11
Inspection	9
Other (administrative, fiscal, personnel, etc.)	16
<b>Regulatory Program Total</b>	<b>36</b>
<b>AML Program Total</b>	
<b>TOTAL</b>	<b>36</b>

**TABLE 10**

<b>STATE OF TENNESSEE</b> <b>KFO INSPECTION ACTIVITY</b>  <b>Period: October 1, 2005 - September 30, 2006</b>		
<b>Inspectable Unit</b> <b>Status</b>	<b>Number of Inspections Conducted</b>	
	<b>Complete</b>	<b>Partial</b>
Active*	462	773
Inactive*	78	28
Abandoned*	18	2
<b>Total</b>	<b>558</b>	<b>805**</b>
<b>Exploration</b>	<b>53</b>	<b>29</b>

\*\* Two coal-production audit reviews were conducted by Auditor and reported directly to I&E database.

**TABLE 10-A**

<b>STATE OF GEORGIA KFO INSPECTION ACTIVITY</b>		
<b>Period: October 1, 2005 - September 30, 2006</b>		
<b>Inspectable Unit Status</b>	<b>Number of Inspections Conducted</b>	
	<b>Complete</b>	<b>Partial</b>
Active*	0	0
Inactive*	0	0
Abandoned*	1	0
<b>Total</b>	<b>1</b>	<b>0</b>
<b>Exploration</b>	<b>0</b>	<b>0</b>

**TABLE 11**

<b>STATE OF TENNESSEE</b> <b>KFO ENFORCEMENT ACTIVITY</b>  <b>Period: October 1, 2005 - September 30, 2006</b>		
<b>Type of Enforcement Action</b>	<b>Number of Actions*</b>	<b>Number of Violations*</b>
<b>Notice of Violation</b>	75	116
<b>Failure-to-Abate Cessation Order</b>	12	23
<b>Imminent Harm Cessation Order</b>	0	0

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

**TABLE 11-A**

<b>STATE OF GEORGIA KFO ENFORCEMENT ACTIVITY</b>		
<b>Period: October 1, 2005 - September 30, 2006</b>		
<b>Type of Enforcement Action</b>	<b>Number of Actions*</b>	<b>Number of Violations*</b>
<b>Notice of Violation</b>	0	0
<b>Failure-to-Abate Cessation Order</b>	0	0
<b>Imminent Harm Cessation Order</b>	0	0

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

**TABLE 12**

<b>KFO LANDS UNSUITABLE ACTIVITY</b>			
<b>Period: October 1, 2005 - September 30, 2006</b>			
Number of Petitions Received	1		
Number of Petitions Accepted	0		
Number of Petitions Rejected	1		
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.**