FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

PERFORMANCE AND ACCOUNTABILITY REPORT

FOR THE YEARS ENDED
SEPTEMBER 30, 2007 AND 2006

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION
FOR THE YEARS ENDED SEPTEMBER 30, 2007 AND 2006

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BROWN & COMPANY CPAs, PLLC

CERTIFIED PUBLIC ACCOUNTANTS AND MANAGEMENT CONSULTANTS

INDEPENDENT AUDITOR'S REPORT ON THE FINANCIAL STATEMENTS

Federal Mine Safety and Health Review Commission
Washington, D.C.

We have audited the accompanying balance sheet of the Federal Mine Safety and Health Review Commission (FMSHRC) as of September 30, 2007 and 2006, and the related statements of net cost, changes in net position, and budgetary resources, for the years then ended (collectively referred to as the financial statements). These financial statements are the responsibility of FMSHRC's management. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audits in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in U.S. Government Auditing Standards, issued by the Comptroller General of the United States; and, Office of Management and Budget (OMB) Bulletin No. 07-04, *Audit Requirement for Federal Financial Statements.* Those standards and OMB Bulletin No. 07-04 require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of the FMSHRC as of September 30, 2007 and 2006, and its net costs, changes in net position, and budgetary resources for the years then ended in conformity with accounting principles generally accepted in the United States of America.

In accordance with U.S. Government Auditing Standards and OMB Bulletin No. 07-04, we have also issued a report dated November 9, 2007 on our consideration of the FMSHRC internal control over financial reporting and its compliance with provisions of laws and regulations. Those reports are an integral part of an audit performed in accordance with U.S. Government Auditing Standards and should be read in conjunction with this report in considering the results of our audit.

The information in "Management's Discussion & Analysis" is presented for the purpose of additional analysis and is required by OMB Circular No. A-136, revised *Financial Reporting Requirements*. We have applied certain limited procedures, which consisted principally of inquiries of management regarding the methods of measurement and presentation of the supplementary information. However, we did not audit the information and, accordingly, express no opinion on it.

Brown & Company

Largo, Maryland
November 9, 2007

BROWN & COMPANY CPAs, PLLC
CERTIFIED PUBLIC ACCOUNTANTS AND MANAGEMENT CONSULTANTS

INDEPENDENT AUDITOR'S REPORT ON INTERNAL CONTROL

Federal Mine Safety and Health Review Commission
Washington, D.C.

We have audited the financial statements of the Federal Mine Safety and Health Review Commission (FMSHRC) as of and for the year ended September 30, 2007 and have issued our report thereon dated November 9, 2007. We conducted our audit in accordance with auditing standards generally accepted in the United States of America; and the standards applicable to financial audits contained in U.S Government Auditing Standards, issued by the Comptroller General of the United States; and Office of Management and Budget (OMB) Bulletin No. 07-04, *Audit Requirements for Federal Financial Statements.*

In planning and performing our audit, we considered the FMSHRC's internal control over financial reporting by obtaining an understanding of the FMSHRC's internal control, determined whether internal controls had been placed in operation, assessed control risk, and performed tests of controls in order to determine our auditing procedures for the purpose of expressing our opinion on the financial statements. We limited our internal control testing to those controls necessary to achieve the objectives described in OMB Bulletin No. 07-04. We did not test all internal controls relevant to operating objectives as broadly defined by the Federal Managers' Financial Integrity Act of 1982, such as those controls relevant to ensuring efficient operations. The objective of our audit was not to provide an opinion on internal control and therefore, we do not express an opinion on internal control.

Our consideration of the internal control over financial reporting would not necessarily disclose all matters in the internal control over financial reporting that might be significant deficiencies. Under standards issued by the American Institute of Certified Public Accountants and OMB Bulletin No. 07-04, a significant deficiency is a deficiency in internal control, or a combination of deficiencies, that adversely affects the entity's ability to initiate, authorize, record, process, or report financial data reliably in accordance with generally accepted accounting principles such that there is more than a remote likelihood that a misstatement of the entity's financial statements that is more than inconsequential will not be prevented or detected. Our consideration of the internal control over financial reporting would not necessarily disclose all matters in the internal control over financial reporting that might be a material weakness. A material weakness is a significant deficiency, or combination of significant deficiencies, that result in a more than remote likelihood that a material misstatement of the financial statements will not be prevented or detected. Because of inherent limitations in internal controls, misstatements, losses, or non-compliance may nevertheless occur and not be detected. However, we noted no matters involving the internal control and its operation that we considered to be significant deficiencies or material weaknesses as defined above.

In addition, with respect to internal control objective related to the performance measures included in the "Management's Discussion & Analysis," we obtained an understanding of the design of internal controls relating to the existence and completeness assertions, and determined whether they have been placed in operation as required by OMB Bulletin No. 07-04. Our procedures were not designed to provide opinion on internal control over reported performance measures, and, accordingly, we do not express an opinion on such controls.

This report is intended solely for the information and use of the management of the FMSHRC, OMB, and Congress, and is not intended to be and should not be used by anyone other than these specified parties.

Bean & Company

Largo, Maryland
November 9, 2007

**INDEPENDENT AUDITOR'S REPORT ON
COMPLIANCE WITH LAWS AND REGULATIONS**

Federal Mine Safety and Health Review Commission
Washington, D.C.

We have audited the financial statements of the Federal Mine Safety and Health Review Commission (FMSHRC) as of and for the year ended September 30, 2007, and have issued our report thereon dated November 9, 2007. We conducted our audit in accordance with auditing standards generally accepted in the United States of America, and the standards applicable to financial audits contained in U.S. Government Auditing Standards, issued by the Comptroller General of the United States; and Office of Management and Budget (OMB) Bulletin No. 07-04, *Audit Requirements for Federal Financial Statements.*

The management of the FMSHRC is responsible for complying with laws and regulations applicable to the FMSHRC. As part of obtaining reasonable assurance about whether the FMSHRC's financial statements are free of material misstatement, we performed tests of its compliance with certain provisions of laws and regulations, noncompliance with which could have a direct and material effect on the determination of financial statement amounts, and certain other laws and regulations specified in OMB Bulletin No. 07-04. We limited our tests of compliance to these provisions and we did not test compliance with all laws and regulations applicable to the FMSHRC.

The results of our tests of compliance disclosed no reportable instances of noncompliance with other laws and regulations discussed in the preceding paragraph that are required to be reported under U.S. Government Auditing Standards or OMB Bulletin No. 07-04.

Providing an opinion on compliance with certain provisions of laws and regulations was not an objective of our audit, and, accordingly, we do not express such an opinion. However, we noted no noncompliance with laws and regulations, which could have a direct and material effect on the determination of financial statement amounts.

This report is intended solely for the information and use of the management of the FMSHRC, OMB, and Congress, and is not intended to be and should not be used by anyone other than these specified parties.

Brown & Company

Largo, Maryland
November 9, 2007

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION
BALANCE SHEET
As of September 30, 2007 and 2006
(in dollars)

	2007	2006
Assets:		
Intragovernmental:		
Fund Balance with Treasury (Note 2)	$ 4,699,725	$ 4,694,223
Total Intragovernmental	4,699,725	4,694,223
General Property, Plant and Equipment, Net (Note 3)	57,723	77,643
Total Assets	$ 4,757,448	$ 4,771,866
Liabilities:		
Intragovernmental:		
Payroll Taxes Payable	$ 27,498	$ 28,843
Total Intragovernmental	27,498	28,843
Accounts Payable	94,082	91,895
Unfunded Leave (Note 4)	264,775	338,042
Accrued Funded Payroll	147,028	174,694
Payroll Taxes Payable	3,567	3,705
Total Liabilities	$ 536,950	$ 637,179
Net Position:		
Unexpended Appropriations - Other Funds	$ 4,427,549	$ 4,395,086
Cumulative Results of Operations - Other Funds	(207,051)	(260,399)
Total Net Position	$ 4,220,498	$ 4,134,687
Total Liabilities and Net Position	$ 4,757,448	$ 4,771,866

The accompanying notes are an integral part of these statements.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION
STATEMENT OF NET COST
For the years ended September 30, 2007 and 2006
(in dollars)

	2007	2006
Program Costs:		
Commission Review		
Gross Costs	$ 3,998,486	$ 4,465,955
Net Program Costs	3,998,486	4,465,955
Administrative Law Judge Determinations		
Gross Costs	3,324,910	3,182,730
Net Program Costs	3,324,910	3,182,730
Net Cost of Operations	$ 7,323,396	$ 7,648,685

The accompanying notes are an integral part of these statements.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION
STATEMENT OF CHANGES IN NET POSITION
For the years ended September 30, 2007 and 2006
(in dollars)

	2007	2006
Cumulative Results of Operations:		
Beginning Balances	$ (260,399)	$ (210,640)
Budgetary Financing Sources:		
Appropriations Used	6,989,418	7,234,242
Other Financing Sources (Non-Exchange):		
Imputed Financing Sources	387,326	364,684
Total Financing Sources	$ 7,376,744	$ 7,598,926
Net Cost of Operations	7,323,396	7,648,685
Net Changes	53,348	(49,759)
Cumulative Results of Operations	$ (207,051)	$ (260,399)
Unexpended Appropriations:		
Beginning Balances	$ 4,395,086	$ 3,953,243
Budgetary Financing Sources:		
Appropriations Received	7,777,652	7,809,000
Other Adjustments	(755,771)	(132,915)
Appropriations Used	(6,989,418)	(7,234,242)
Total Budgetary Financing Sources	$ 32,463	$ 441,843
Total Unexpended Appropriations	$ 4,427,549	$ 4,395,086
Net Position	$ 4,220,498	$ 4,134,687

The accompanying notes are an integral part of these statements.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION
STATEMENT OF BUDGETARY RESOURCES
For the years ended September 30, 2007 and 2006
(in dollars)

	2007	2006
Budgetary Resources:		
Unobligated Balance Brought Forward, October 1:	$ 3,243,153	$ 2,939,327
Recoveries of Prior Year Unpaid Obligations	706,954	141,299
Budget Authority		
Appropriation	7,777,652	7,809,000
Permanently Not Available	755,771	132,915
Total Budgetary Resources	$ 10,971,988	$ 10,756,711
Status of Budgetary Resources:		
Obligations Incurred		
Direct	$ 7,585,490	$ 7,513,558
Unobligated Balance		
Apportioned	394,618	348,841
Unobligated Balance Not Available	2,991,880	2,894,312
Total Status of Budgetary Resources	$ 10,971,988	$ 10,756,711
Change in Obligated Balance:		
Obligated Balance, Net		
Unpaid Obligations, Brought Forward, October 1	$ 1,451,071	$ 1,250,159
Obligations Incurred Net	7,585,490	7,513,558
Less: Gross Outlays	7,016,380	7,171,349
Less: Recoveries of Prior Year Unpaid Obligations, Actual	706,954	141,298
Obligated Balance, Net, End of Period		
Unpaid Obligations	$ 1,313,227	$ 1,451,070
Total, Unpaid Obligated Balance, Net, End of Period	$ 1,313,227	$ 1,451,070
Net Outlays:		
Net Outlays:		
Gross Outlays	$ 7,016,380	$ 7,171,349
Net Outlays	$ 7,016,380	$ 7,171,349

The accompanying notes are an integral part of these statements.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION
NOTES TO THE FINANCIAL STATEMENTS
FOR THE YEARS ENDED SEPTEMBER 30, 2007 AND 2006

NOTE 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

A. Basis of Presentation

The financial statements have been prepared to report the financial position, net cost of operations, changes in net position, and status and availability of budgetary resources of Federal Mine Safety and Health Review Commission (MSC). The statements are a requirement of the Chief Financial Officers Act of 1990, the Government Management Reform Act of 1994, the Accountability of Tax Dollars Act of 2002 and the Office of Management and Budget (OMB) Bulletin 07-04, Audit Requirements for Federal Financial Statements. They have been prepared from, and are fully supported by, the books and records of MSC in accordance with the hierarchy of accounting principles generally accepted in the United States of America, standards approved by the principals of the Federal Accounting Standards Advisory Board (FASAB), OMB Circular A-136, *Financial Reporting Requirements* and MSC accounting policies which are summarized in this note. These statements, with the exception of the Statement of Budgetary Resources, are different from financial management reports, which are also prepared pursuant to OMB directives that are used to monitor and control MSC's use of budgetary resources.

The statements consist of the Balance Sheet, Statement of Net Cost, Statement of Changes in Net Position, and the Statement of Budgetary Resources. In accordance with OMB Circular A-136, the financial statements and associated notes are presented on a comparative basis. Unless specified otherwise, all amounts are presented in dollars.

B. Reporting Entity

MSC is an independent Federal agency with the mission of providing administrative trial and appellate review of legal disputes arising under the Federal Mine Safety and Health Amendments Act of 1977, Public Law 91-173, amended by Public Law 95-164.

MSC has rights and ownership of all assets reported in these financial statements and does not possess any non-entity assets.

C. Budgets and Budgetary Accounting

Congress enacts appropriations to permit MSC to incur obligations for specified purposes. In fiscal years 2007 and 2006, MSC was accountable for General Fund appropriations. MSC recognizes budgetary resources as assets when cash (funds held by the U.S. Treasury) is made available through the Department of Treasury General Fund warrants.

D. Basis of Accounting

Transactions are recorded on both an accrual accounting basis and a budgetary basis. Under the accrual method, revenues are recognized when earned, and expenses are recognized when a liability is incurred, without regard to receipt or disbursement of cash. Budgetary accounting facilitates compliance with legal requirements on the use of federal funds.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION
NOTES TO THE FINANCIAL STATEMENTS
FOR THE YEARS ENDED SEPTEMBER 30, 2007 AND 2006

NOTE 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED*)*

E. Revenues & Other Financing Sources

Congress enacts annual appropriations to be used, within statutory limits, for operating and capital expenditures. Appropriations are recognized as a financing source when expended.

MSC recognizes as an imputed financing source the amount of accrued pension and post-retirement benefit expenses for current employees paid on our behalf by the Office of Personnel Management (OPM).

F. Taxes

MSC, as a Federal entity, is not subject to federal, state, or local income taxes, and, accordingly, no provision for income taxes has been recorded in the accompanying financial statements.

G. Fund Balance with Treasury

The U.S. Treasury processes cash receipts and disbursements. Funds held at the Treasury are available to pay agency liabilities. MSC does not maintain cash in commercial bank accounts or foreign currency balances. Foreign currency payments are made either by Treasury or the Department of State and are reported by MSC in the U.S. dollar equivalents.

H. Accounts Receivable

Accounts receivable consists of amounts owed to MSC by other federal agencies and the public. Amounts due from Federal agencies are considered fully collectible. Accounts receivable from the public include reimbursements from employees. An allowance for uncollectible accounts receivable from the public is established when either (1) based upon a review of outstanding accounts and the failure of all collection efforts, management determines that collection is unlikely to occur considering the debtor's ability to pay, or (2) an account for which no allowance has been established is submitted to the Department of the Treasury for collection, which takes place when it becomes 180 days delinquent.

I. Property, Plant and Equipment, Net

MSC's property, plant and equipment is recorded at original acquisition cost and is depreciated using the straight-line method over the estimated useful life of the asset. Major alterations and renovations are capitalized, while maintenance and repair costs are charged to expense as incurred. MSC's capitalization threshold is $50,000 for individual purchases and $500,000 for bulk purchases. Applicable standard governmental guidelines regulate the disposal and convertibility of agency property, plant and equipment. The useful life classifications for capitalized assets are as follows:

Description	Useful Life (years)
Office Equipment	5

NOTE 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

J. Advances and Prepaid Charges

Advance payments are generally prohibited by law. There are some exceptions, such as reimbursable agreements, subscriptions and payments to contractors and employees. Payments made in advance of the receipt of goods and services are recorded as advances or prepaid charges at the time of prepayment and recognized as expenses when the related goods and services are received.

K. Liabilities

Liabilities covered by budgetary or other resources are those liabilities for which Congress has appropriated funds or funding is otherwise available to pay amounts due.

Liabilities not covered by budgetary or other resources represent amounts owed in excess of available Congressionally appropriated funds or other amounts. The liquidation of liabilities not covered by budgetary or other resources is dependent on future Congressional appropriations or other funding. Intragovernmental liabilities are claims against MSC by other Federal agencies. Liabilities not covered by budgetary resources on the Balance Sheet are equivalent to amounts reported as Components requiring or generating resources on the Reconciliation of Net Cost to Budget. Additionally, the Government, acting in its sovereign capacity, can abrogate liabilities.

L. Accounts Payable

Accounts payable consists of amounts owed to other Federal agencies and the public.

M. Annual, Sick, and Other Leave

Annual leave is accrued as it is earned, and the accrual is reduced as leave is taken. The balance in the accrued leave account is adjusted to reflect current pay rates. Liabilities associated with other types of vested leave, including compensatory, restored leave, and sick leave in certain circumstances, are accrued at year-end, based on latest pay rates and unused hours of leave. Funding will be obtained from future financing sources to the extent that current or prior year appropriations are not available to fund annual and other types of vested leave earned but not taken. Nonvested leave is expensed when used. Any liability for sick leave that is accrued but not taken by a Civil Service Retirement System (CSRS)-covered employee is transferred to the Office of Personnel Management upon the retirement of that individual. No credit is given for sick leave balances upon the retirement of Federal Employee’s Retirement System (FERS)-covered employees.

NOTE 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

N. Retirement Plans

MSC employees participate in either the Civil Service Retirement System (CSRS) or the Federal Employees' Retirement System (FERS). FERS was established by the enactment of Public Law 99-335. Pursuant to this law, FERS and Social Security automatically cover most employees hired after December 31, 1983. Employees hired before January 1, 1984 elected to join either FERS and Social Security or remain in CSRS.

All employees are eligible to contribute to the Thrift Savings Plan (TSP). For those employees participating in the FERS, a TSP account is automatically established and MSC makes a mandatory 1 percent contribution to this account. In addition, MSC makes matching contributions, ranging from 1 to 4 percent, for FERS eligible employees who contribute to their TSP accounts. Matching contributions are not made to the TSP accounts established by CSRS employees.

MSC recognizes the imputed cost of pension and other retirement benefits during the employees' active years of service. OPM actuaries determine pension cost factors by calculating the value of pension benefits expected to be paid in the future and communicates these factors to MSC for current period expense reporting. OPM also provides information regarding the full cost of health and life insurance benefits. MSC recognized the offsetting revenue as imputed financing sources to the extent these expenses will be paid by OPM.

MSC does not report on its financial statements information pertaining to the retirement plans covering its employees. Reporting amounts such as plan assets, accumulated plan benefits, and related unfunded liabilities, if any, is the responsibility of the OPM.

O. Use of Estimates

Management has made certain estimates and assumptions when reporting assets, liabilities, revenue, expenses, and in the note disclosures. The preparation of financial statements in conformity with generally accepted accounting principles required management to make assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from these estimates.

P. Imputed Costs/Financing Sources

Federal Government entities often receive goods and services from other Federal Government entities without reimbursing the providing entity for all the related costs. In addition, Federal Government entities also incur costs that are paid in total or in part by other entities. An imputed financing source is recognized by the receiving entity for costs that are paid by other entities. MSC recognized imputed costs and financing sources in fiscal years 2007 and 2006 to the extent directed by OMB.

NOTE 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

Q. Contingencies

Liabilities are deemed contingent when the existence or amount of the liability cannot be determined with certainty pending the outcome of future events. MSC recognizes contingent liabilities, in the accompanying balance sheet and statement of net cost, when it is both probable and can be reasonably estimated. MSC discloses contingent liabilities in the notes to the financial statements when the conditions for liability recognition are not met or when a loss from the outcome of future events is more than remote. In some cases, once losses are certain, payments may be made from the Judgment Fund maintained by the U.S. Treasury rather than from the amounts appropriated to MSC for agency operations. Payments from the Judgment Fund are recorded as an "Other Financing Source" when made. There are no contingencies that require disclosure.

R. Expired Accounts and Cancelled Authority

Unless otherwise specified by law, annual authority expires for incurring new obligations at the beginning of the subsequent fiscal year. The account in which the annual authority is placed is called the expired account. For five fiscal years, the expired account is available for expenditure to liquidate valid obligations incurred during the unexpired period. Adjustments are allowed to increase or decrease valid obligations incurred during the unexpired period but not previously reported. At the end of the fifth expired year, the expired account is cancelled.

S. Reclassification

Certain fiscal year 2006 balances have been reclassified, retitled, or combined with other financial statement line items for consistency with current year presentation. Under SFFAS 7, OMB has reclassified the Statement of Financing to be presented in a note as Reconciliation of Net Cost of Operations to Budget.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION
NOTES TO THE FINANCIAL STATEMENTS
FOR THE YEARS ENDED SEPTEMBER 30, 2007 AND 2006

NOTE 2. FUND BALANCE WITH TREASURY

Fund balance with Treasury account balances as of September 30, 2007 and 2006 were:

Fund Balances:

	2007	2006
Appropriated Funds	$ 4,699,725	$ 4,694,223

Status of Fund Balance with Treasury:

	2007	2006
Unobligated Balance		
Available	$ 394,618	$ 348,841
Unavailable	2,991,880	2,894,312
Obligated Balance not yet Disbursed	1,313,227	1,451,070
Total	$ 4,699,725	$ 4,694,223

NOTE 3. GENERAL PROPERTY, PLANT AND EQUIPMENT

Property, plant and equipment account balances as of September 30, 2007 and 2006 were as follows:

Schedule of Property, Plant and Equipment as of September 30, 2007

Description	Acquisition Cost	Accumulated Depreciation	Net Book Value
Office Equipment	$ 99,597	$ 41,874	$ 57,723

Schedule of Property, Plant and Equipment as of September 30, 2006

Description	Acquisition Cost	Accumulated Depreciation	Net Book Value
Office Equipment	$ 99,597	$ 21,954	$ 77,643

NOTE 4. LIABILITIES NOT COVERED BY BUDGETARY RESOURCES

The liabilities on MSC's Balance Sheet as of September 30, 2007 and 2006, include liabilities not covered by budgetary resources, which are liabilities for which congressional action is needed before budgetary resources can be provided. Although future appropriations to fund these liabilities are likely and anticipated, it is not certain that appropriations will be enacted to fund these liabilities. Other liabilities not covered by budgetary resources consist entirely of unfunded leave liabilities. Unfunded leave balances are $264,775 and $338,042 as of September 30, 2007 and 2006, respectively.

NOTE 5. LEASES

MSC occupies office space under a lease agreement that is accounted for as an operating lease. The lease term began on October 1, 2002 and expires on October 1, 2012. Lease payments are increased annually based on the adjustments for operating cost and real estate tax escalations. Below is a schedule of future payments for the term of the lease.

Fiscal Year	Building
2008	$ 1,260,989
2009	1,286,027
2010	1,311,542
2011	1,337,542
2012	1,364,040
Total Future Payments	$ 6,560,140

The operating lease amount does not include estimated payments for leases with annual renewal options.

NOTE 6. INTRAGOVERNMENTAL COSTS AND EXCHANGE REVENUE

Intragovernmental costs and intragovernmental exchanges revenue represent goods and services exchange transactions made between two reporting entities within the Federal government, and are in contrast to those with non-federal entities (the public). Such costs and revenue are summarized as follows:

	2007	2006
Commission Review		
Intragovernmental Costs	$ 1,497,832	$ 1,514,349
Public Costs	2,500,654	2,951,606
Total Program Costs	$ 3,998,486	$ 4,465,955
Administrative Law Judge Determinations		
Intragovernmental Costs	$ 1,318,076	$ 1,359,386
Public Costs	2,006,834	1,823,344
Total Program Costs	$ 3,324,910	$ 3,182,730
Total Intragovernmental Costs	$ 2,815,908	$ 2,873,735
Total Public Costs	4,507,488	4,774,950
Total Net Cost	$ 7,323,396	$ 7,648,685

NOTE 7. OPERATING/PROGRAM COSTS

Costs by major budgetary object classification as of September 30, 2007 and 2006 are as follows:

Budgetary Object Classifications	2007	2006
Personnel and Benefits	$ 5,039,721	$ 5,418,061
Benefits to former employees	10,432	0
Travel and Transportation	62,520	55,452
Rents, Communication & Utilities	1,362,910	1,382,208
Printing	12,435	35,718
Other Services	642,640	575,173
Supplies and Materials	82,822	49,745
Equipment	109,916	132,328
Total	$ 7,323,396	$ 7,648,685

NOTE 8. IMPUTED FINANCING SOURCES

MSC recognizes as imputed financing the amount of accrued pension and post-retirement benefit expenses for current employees. The assets and liabilities associated with such benefits are the responsibility of the administering agency, the Office of Personnel Management (OPM). For the fiscal years ended September 30, 2007 and 2006, respectively, imputed financing was $387,326 and $364,684, respectively.

NOTE 9. EXPLANATION OF DIFFERENCES BETWEEN THE STATEMENT OF BUDGETARY RESOURCES AND THE BUDGET OF THE UNITED STATES GOVERNMENT

Statement of Federal Financial Accounting Standards No. 7, Accounting for Revenue and Other Financing Sources and Concepts for Reconciling Budgetary and Financial Accounting, calls for explanations of material differences between amounts reported in the Statement of Budgetary Resources and the actual balances published in the Budget of the United States Government (President's Budget). However, the President's Budget that will include fiscal year 2007 actual budgetary execution information has not yet been published. The President's Budget is scheduled for publication in February 2008 and can be found at the OMB web site: http://www.whitehouse.gov/omb. The 2008 Budget of the United States Government, with the Actual Column completed for 2006, has been reconciled to the Statement of Budgetary Resources and there were no material differences.

NOTE 10. UNDELIVERED ORDERS AT THE END OF THE PERIOD

Beginning with fiscal year 2006, the format of the Statement of Budgetary Resources has changed and the amount of undelivered orders at the end of the period is no longer required to be reported on the face of the statement. Statement of Federal Financial Accounting Standards No. 7, Accounting for Revenue and Other Financing Sources and Concepts for Reconciling Budgetary and Financial Accounting, states that the amount of budgetary resources obligated for undelivered orders at the end of the period should be disclosed. MSC's budgetary resources obligated for undelivered orders are $1,041,052 and $1,151,933 for the years ended September 30, 2007 and 2006, respectively.

NOTE 11. CUSTODIAL ACTIVITY

MSC's custodial collection primarily consists of Freedom of Information Act requests. While these collections are considered custodial, they are not primary to the mission of MSC nor material to the overall financial statements. MSC's total custodial collections are $59 and $198 for the years ended September 30, 2007, and 2006, respectively.

NOTE 12. RECONCILIATION OF NET COST OF OPERATIONS TO BUDGET

MSC has reconciled its budgetary obligations and non-budgetary resources available to its net cost of operations.

	2007	2006
Resources Used to Finance Activities:		
Budgetary Resources Obligated		
Obligations Incurred	$ 7,585,490	$ 7,513,558
Less: Spending Authority from Offsetting Collections and Recoveries	706,954	141,299
Obligations Net of Offsetting Collections and Recoveries	6,878,536	7,372,259
Net Obligations	6,878,536	7,372,259
Other Resources		
Imputed Financing from Costs Absorbed by Others	387,326	364,684
Net Other Resources Used to Finance Activities	387,326	364,684
Total Resources Used to Finance Activities	$ 7,265,862	$ 7,736,943
Resources Used to Finance Items Not Part of the Net Cost of Operations		
Change in Budgetary Resources Obligated for Goods, Services and Benefits Ordered but Not Yet Provided	$ (110,882)	$ 138,018
Resources that Fund Expenses Recognized in Prior Periods	73,267	-
Total Resources Used to Finance Items Not Part of the Net Cost of Operations	(37,615)	138,018
Total Resources Used to Finance the Net Cost of Operations	$ 7,303,477	$ 7,598,925
Components of the Net Cost of Operations That Will Not Require or Generate Resources in the Current Period		
Components Requiring or Generating Resources in Future Periods		
Increase in Annual Leave Liability	$ -	$ 9,841
Total Components of Net Cost of Operations that will Require or Generate Resources in Future Periods	-	29,841
Components Not Requiring or Generating Resources:		
Depreciation and Amortization	19,919	19,919
Total Components of Net Cost of Operations that will Not Require or Generate Resources	19,919	19,919
Total Components of Net Cost of Operations that will Not Require or Generate Resources in the Current Period	19,919	49,760
Net Cost of Operations	$ 7,323,396	$ 7,648,685

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

MANAGEMENT'S DISCUSSION AND ANALYSIS

INTRODUCTION

The Federal Mine Safety and Health Review Commission ("Commission") is an independent adjudicatory agency charged with resolving disputes arising from the enforcement of occupational safety and health standards in the nation's mines. Under its enabling statute, the Federal Mine Safety and Health Act of 1977 ("Mine Act"), as amended, the Commission does not regulate the mining industry, nor does it enforce the Mine Act; those functions are delegated to the Secretary of Labor acting through the Mine Safety and Health Administration (MSHA). The Commission's mission is to provide just, speedy, and articulate adjudication of proceedings authorized under the Mine Act, thereby enhancing compliance with the Act and contributing to the improved health and safety of the nation's miners.

BACKGROUND

The Commission carries out its responsibilities through trial-level adjudication by the Commission's Office of Administrative Law Judges (ALJs) and appellate review of ALJ decisions by a five-member Commission appointed by the President and confirmed by the Senate. Most cases involve civil penalties assessed against mine operators by MSHA and address whether the alleged safety and health violations occurred, and, if so, the appropriate sanctions to be imposed. Other types of cases involve mine operators' contests of mine closure orders, miners' complaints of safety or health related discrimination, miners' applications for compensation after a mine is idled by a closure order, and review of disputes between MSHA and underground coal mine operators relating to those operators' mine emergency plans.[1]

Once a case is filed with the Commission, it is given a docket number and referred to the Chief Administrative Law Judge (Chief ALJ). Thereafter, litigants in the case must submit additional filings before the case is assigned to an ALJ. To expedite the decisional process, the Chief ALJ may rule on certain motions and, where appropriate, issue orders of settlement, dismissal, or default. Otherwise, once a case is assigned to an individual judge, that judge is responsible for the case and rules upon motions and settlement proposals, schedules the case for hearing, holds the hearing, and issues a decision based upon the record. An ALJ's decision that is not reviewed becomes a final, non-precedential order of the Commission.

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1. The Commission's responsibility for reviewing disputes over the contents of mine emergency plans derives from the MINER Act, Pub. L. No. 109-236, 120 Stat. 493, which was passed and signed into law in June of 2006 in response to a series of coal mine disasters that occurred earlier in 2006.

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The 5-member Commission provides administrative appellate review based on the record. It may, in its discretion, review decisions issued by ALJs when requested by a litigant, or it may, on its own initiative, direct cases for review. The Commission's decisions are precedential and appeals from the Commission's decisions are to the federal circuit courts of appeals.

KEY CHALLENGES

As an adjudicatory agency, the Commission's fulfillment of its mission is in large part influenced by the prerogatives of the parties that practice before it. This circumstance arises from the unique procedural structures created by the Mine Act itself. For example, the Mine Act provides that a mine operator may challenge an enforcement action, e.g., a citation or closure order, within 30 days of receipt thereof. At that point, however, MSHA will not have had time to propose an appropriate civil penalty as a sanction for the citation or order. That process may take weeks or months following the initial enforcement action.[2] Consequently, the Mine Act also allows the mine operator to defer challenging the citation or order until it has been assigned a proposed penalty assessment by MSHA. At that point the case can then proceed on the issue of whether the alleged violation occurred and, if so, the appropriate civil penalty to be assessed for that violation.

Nevertheless, operators often file the initial contest even though they intend to wait until the proposed civil penalty is issued. At that point, the two proceedings are consolidated and the matter proceeds to settlement or trial. The operator's initial contest, however, has historically been carried on the Commission's docket as a pending unresolved case. That practice obviously leads to confusion regarding the Commission's productivity with respect to the disposition of cases at the ALJ level. For this reason, the Commission has determined that, unless the operator seeks to proceed with the litigation before a proposed penalty is issued, the Chief ALJ should defer the assignment of an operator contest to an ALJ until such time as MSHA arrives at a proposed civil penalty, the operator notifies MSHA that it intends to contest the penalty, and MSHA in turn notifies the Commission of that fact. This change in the Commission's docket record keeping more accurately represents the status of pending cases and allows the Commission's ALJs to focus their efforts on those matters wherein all relevant issues have been fully joined.[3]

The scope of the Commission's mission has been significantly expanded by the passage of the MINER Act in June of 2006. That statute amends the Mine Act and vests the Commission with the responsibility for resolving disputes over the contents of mine emergency plans adopted

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2. Section 105(a) of the Mine Act requires MSHA to notify a mine operator of the civil penalty to be imposed "within a reasonable time" after the citation or order upon which it is based is issued. 30 U.S.C. § 815(a). The District of Columbia Circuit Court of Appeals has ruled that the Secretary views on what constitutes "a reasonable time"supersede those of the Commission. *Sec'y of Labor v. Twentymile Coal Co.*, 411 F.3d 256, 262 & n.1 (D.C. Cir. 2005). Thus, a case may be delayed before even reaching the Commission because of the need to wait for the Secretary to propose a penalty for the alleged violation at issue in the case.

3. *Marfork Coal Co.*, 29 FMSHRC 626 (Aug. 2007). As that decision provides, if an operator can demonstrate that the stay of its contest should be lifted and that the contest should proceed prior to the issuance of the proposed civil penalty, the operator can file a motion to lift the stay for that purpose. *Id.* at 636.

by underground coal mine operators and submitted to MSHA for review and approval. The MINER Act imposes tight deadlines on the Commission and its judges with respect to these proceedings, and the Commission has expeditiously adopted procedural rules for carrying out Congressional intent.[4] Nevertheless, this new jurisdiction will tax the resources of the Commission's Office of ALJs. Moreover, given the structure of the MINER Act, the Commission's responsibilities in this area will not necessarily dissipate once the initial emergency plans are developed, reviewed, and, if necessary, litigated. The statute calls for the periodic updating, review, and approval of mine emergency plans and the adoption of new technologies in underground communications and disaster response. As this process evolves, the Commission anticipates that its role as arbiter in the plan adoption and approval process will be a significant and ongoing responsibility.

The MINER Act also establishes new and stronger civil sanctions for violations of the Mine Act, including minimum penalties for an operator's unwarrantable failure to comply with the statute or the mandatory safety and health standards, and a new penalty for conduct deemed "flagrant."[5] In response to the MINER Act, MSHA has revised its civil penalty regulations, which will result in significant increases in the amount of civil penalties proposed by the agency. MSHA has also indicated that it will increase the exercise of its authority to issue closure orders at mines that have demonstrated a "pattern" of "significant and substantial" violations of the Act and the mandatory safety and health standards.[6] These statutory and regulatory initiatives are expected to increase the number of operator contests filed with the Commission and may affect the number of cases that go to hearing rather than to settlement.

As a result of these legislative and regulatory changes, the Commission has experienced a dramatic rise in the number of contest cases filed by mine operators. Indeed, the number of cases filed with the Commission has risen from 2440 filed in FY 2005 to 3360 filed in FY 2006. The FY 2006 total was already exceeded by mid-August of FY 2007 (3374 as of August 22), thus indicating that the number of new contests will continue to increase dramatically over the coming years.[7]

At the appellate level, the Commission's workload is determined predominately by the number of appeals filed by the parties. Although acceptance of an appeal is discretionary, the percentage of cases denied review has not varied significantly. In addition, while the number of appeals may vary, the Commission has not been able to discern a clear relationship between the trial caseload and the number of petitions for appellate review it receives. It should be noted that

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4. *See* 30 C.F.R. 2700.24; 72 Fed. Reg. 2187 (Jan. 18, 2007) (final rules); 71 Fed. Reg. 40654 (July 18, 2006) (interim rules).

5. MSHA's guidelines for implementing the flagrant violation penalty are contained in the agency's Procedural Instruction Letter No. 106-III-4, issued October 26, 2006.

6. That authority is derived from section 104(e) of the Mine Act, 30 U.S.C. 814(e).

7. Other court decisions may result in additions to the Commission's caseload. For example, a challenge to MSHA's health standards for the use of diesel-powered equipment in underground metal/nonmetal mines was recently denied by the D.C. Circuit Court of Appeals in *Kennecott Greens Creek Mining Co. v. MSHA*, 476 F.3d 946 (2007). This could result in an increase in the Commission's caseload as MSHA and the operators seek resolution of issues relating to the interpretation and application of the new standards.

recent Mine Act jurisprudence adopted by the D.C. Circuit Court of Appeals that circumscribes the Commission's scope of review of MSHA policy may also affect the Commission's review docket.[8] Nevertheless, the Commission expects that its workload will increase significantly from prior years, thus making it more challenging to attain the Commission's goal of timely adjudication at the trial and appellate levels.[9]

In FY 2006-07, the Commission undertook a complete review and revision of its procedural rules in an effort to reflect evolving case law and to otherwise clarify and improve the rules. It can be expected that these changes may engender some litigation activity as new procedures replace old ones, but this activity should be minimal.

Finally, the tragic events of September 11, 2001, and recent natural disasters underscore the need for a government agency to assure that its records are secure and replicable in the event that physical files are destroyed or become otherwise inaccessible. The Commission must therefore establish an electronic data system that stores all key documents away from the Commission's offices in such a way as to allow Commission personnel to access those documents in order to carry out the Commission's mission.

To meet these anticipated challenges, the Commission must streamline its case handling procedures, redirect its financial and human resources, and encourage efficiency and timeliness among the parties who practice before it. Accordingly, the Commission has adopted a set of goals for the next five years that, if achieved, will ensure that the Commission continues to carry out its mission in a just, efficient, open, and credible manner.

MANAGEMENT DISCUSSION AND ANALYSIS

Strategic Goals

In view of the recent and continuing upsurge in its caseload, the Commission must continually reassess its strategic goals in light of changing circumstances. Therefore, the Commission will establish benchmarks as part of its overall strategic plan, but it will also revisit and evaluate those benchmarks as part of its annual performance and budget planning activity. The annual performance plan will clearly explain the role of each Commission activity as set forth in the Commission's budget. The plan's specific objectives, adjusted to reflect policy determinations and resource allocations in the annual budget process, will serve as intermediate

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8. *See Sec'y of Labor v. Twentymile Coal Co.*, 411 F.3d 256 (D.C. Cir. 2005); *Sec'y of Labor v. Twentymile Coal Co.*, 456 F.3d 151 (D.C. Cir. 2006); *Sec'y of Labor v. Spartan Mining Co.*, 415 F.3d 82 (D.C. Cir. 2005); *Sec'y of Labor v. National Cement Co. of California*, _ F.3d _, 2007 WL 2067023 (D.C. Cir. 2007).

9. The Commission's appellate docket in recent years has experienced an upsurge in requests to reopen proceedings where a mine operator has been held in default for failure to respond to orders issued in civil penalty cases. The Commission has worked diligently to educate mine operators, particularly small mine operators, that their filing of a contest against the initial citation or order does not excuse them from their obligation to respond to the Secretary's subsequent petition for civil penalty filed with the Commission. Likewise, ongoing negotiations between operators and MSHA do not relieve operators of their obligations to respond to Commission orders. Nevertheless, when defaults do occur and operators ask that the proceedings be reopened, their requests are evaluated by the Commission under the criteria set forth in Rule 60(b) of the Federal Rules of Civil Procedure.

steps in the Commission's overall efforts to successfully accomplish the goals of this strategic plan.

Accordingly, in order to achieve its mission, the Commission sets forth the following strategic goals:

I. **Ensure expeditious, fair, and legally sound adjudication of cases at the trial and appellate levels.**

Objective—Ensure Timely Issuance of Decisions

Performance Goals–Trials:

Manage the case assignment process to assure that initial filings and response time frames are adhered to, resulting in a decisional process that falls within the time frames in the Commission's procedural rules.

Issue decisions on more than 90 percent of the cases in which hearings are held within 120 days of receipt of post-hearing briefs.

Issue more than 95 percent of all settlement decisions within 30 days of receipt of settlement motions.

Decide more than 95 percent of all cases within 270 days of assignment to an ALJ.

Decide, on average, all cases, within 195 days from receipt by the Commission.

Performance Goals–Appeals:

All Commission cases will be assigned before briefing is completed.

All Commission cases will be decided within 18 months of receipt.

The average age of substantive decisions will be maintained at 12 months or less.[10]

II. **Manage the Commission's human resources, operations, facilities, and systems to ensure a continually improving, effective, and efficient organization.**

Objective—Ensure Organizational and Management Effectiveness

Performance Goals:

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10. Time frames do not include periods during which a case has been stayed.

Periodically review and revise the strategic plan through annual performance goals, objectives and performance measures to assure public awareness, and to guide individual and organizational efforts.

Objective—Provide Effective Information Technology Systems

Performance Goals:

Maintain and enhance secure electronic information systems for case management, legal research, management operations support, public access to data through the internet, and continuity of government during emergencies. Ensure that the Commission's IT structure is maintained according to the latest recommendations of the National Institute of Standards and Technology (NIST) with respect to the security of the agency's network. Move aggressively to a system of "paperless" filing and records management.

Objective—Sustain a High Performing Workforce

Performance Goals:

Recruit, train, and retain a diverse workforce of skilled, highly motivated employees to effectively and efficiently accomplish the Commission's mission.

STRATEGIES FOR ACHIEVING GOALS AND OBJECTIVES

The adjudicative and managerial goals and objectives set forth above can be achieved through an integrated set of strategies that build on current Commission programs and initiatives. For example, the Commission now provides same day electronic audio recordings of oral arguments and decisional meetings on its web site. The Commission anticipates that in the near future such web site access will be provided in real time. Likewise, the Commission is currently overhauling its case management system so that all case files will be stored electronically. That system will ultimately allow parties to file all documents electronically as well.

Working from the premise that fair and expeditious decision making and efficient agency management go hand in hand, the Commission adopts the following strategies to implement the strategic goals and objectives identified above:

1. Prioritize the Decisional Process

The Commission will continue to concentrate on its oldest cases at both the trial and appellate levels. Through the use of enhanced automated case tracking systems, it will identify each case as it proceeds through the decisional process at both the trial and appellate levels. Periodic review of the status of each case against predetermined time standards will identify those cases that may need additional attention. Judges and Commissioners can thereby prioritize their work to facilitate the issuance of opinions.

The Commission will also continue to review at the trial and appellate levels new cases that may be susceptible of quick resolution. Through early identification in the adjudicatory process, these cases are most often disposed of by the Chief ALJ at the trial level and through expedited drafting and decisional procedures at the appellate level. Additionally, the Commission plans to promulgate regulations governing case settlement procedures and anticipate establishing a corps of retired ALJs who, on a contract basis, will supervise settlement negotiations in those cases determined to be likely candidates for settlement.

The Commission will reestablish its law clerkship program to provide research and drafting assistance to its ALJs and assist in the efficient management of each judge's docket.

The Commission will continue at the trial level to use "calendar calling" where cases involving an individual company are grouped together. Pre-hearing initiatives such as conference calls with the parties will continue to be utilized to settle or narrow issues.

2. **Maintain and Enhance an Information Technology Program**

Integral to achieving its objectives, the Commission decision makers and support personnel must have a modern computerized information technology system. This system is necessary to produce Commission decisions, to ascertain immediately the status of any case on the Commission's docket, to research issues electronically from various legal data bases and to provide public access to the Commission's decisions and procedures. The system must also assure that appropriate Commission personnel have ready access to all data necessary to carry out their responsibilities during emergencies.

The Commission's strategy for improving its information technology is to:

Continue to maintain and enhance the case tracking system.

Increase the availability of new Commission decisions by electronically distributing its decisions and immediately posting them on the Commission's website.

Maintain a secure website, accessible to the disabled, containing Commission policies, procedures, and a researchable database of Commission decisions dating back to the Commission's inception.

Provide a secure computer network infrastructure with up-to-date hardware and software to facilitate the Commission's electronic data processing needs.

Arrange for offsite electronic storage of the Commission's database according to a Continuity of Operation Plan (COOP) and provide access to material in that database, as appropriate, by authorized Commission personnel.

Aggressively move toward the electronic filing of documents by those parties appearing before the Commission with the goal of establishing a "paperless" adjudicative system.[11]

3. **Improve Human Resources Management**

The Commission's strategy for improving its human resources management is to:

Conduct a human resources management program to assure that a diverse, highly qualified workforce is adequately trained and accountable in performing the mission and objectives of the agency.

Reestablish the Commission's law clerkship program beginning in FY 2008 with the hiring of four full-time law clerks for terms of two years each, and expanding the program so that by FY 2009, each ALJ will be assigned a law clerk.

Utilize retired ALJs as settlement judges on a contract basis to facilitate the resolution of cases that can be disposed of short of a full trial-type hearing.

4. **Promote Employee Accountability**

Employee accountability in an adjudicative agency presents unique challenges in that ALJs and Commissioners are not subject to individual performance standards. Nevertheless, the Commission will strive to achieve the goals of its strategic plan and annual performance plan by:

Providing all employees with copies of the strategic plan, annual performance plans, and annual accomplishment reports.

Including accountable goals in individual performance standards where appropriate.

Appropriately monitoring individual performance, adjusting individual workloads, and assisting with work assignments as appropriate.

Disseminating to employees monthly reports on the progress in achieving the Commission's goals and objectives.

PROGRAM EVALUATION

The Commission will evaluate its progress toward accomplishing its strategic goals through analysis of the results of its performance measures and through a continual reassessment of its workload and the needs of the parties that it serves. Program strengths and weaknesses will be assessed to determine alternative courses of action. The Commission will use the results

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11. The Commission will, of course, continue to accommodate the needs of pro se litigants who may not have the capability to submit all filings electronically.

of these evaluations to develop the annual performance goals and objectives which will focus the Commission's activities for the year.

FISCAL YEAR 2007 ACCOMPLISHMENTS

The following table displays Commission accomplishments in deciding trial and appellate cases.

	FY 2007 Estimate	FY 2007 Actual
Trial Cases		
Undecided cases beginning-of-year	2,756	2,756
Cases Decided	2,239	2,900
Undecided cases end-of-year	3,756	3,856
Appellate Cases		
Undecided cases beginning-of-year	12	16
Cases Decided	86	87
Undecided cases end-of-year	12	16

The Commission's ALJs had an inventory of 2,756 with 4,000 new cases expected to be received during the year. Case dispositions for the year were 2,900, resulting in an end-of-year inventory of 3,856 undecided cases. The number of new trial cases received is 40 percent higher than FY 2005 and was received at a rate not experienced in the past 10 years. As a result, the inventory of undecided cases as of September 30, 2006 represents a workload of 15 months. The Commission Judges' disposition rate increased 20% in FY 2007 with 97% of these dispositions within 270 days. However, the increase volume of cases has affected the performance goals for FY 2007.

The Commission developed the following performance objectives associated with its FY 2007 budget. These objectives and accomplishments during the year were:

Objective — **Issue opinions in a timely manner**

Performance Goals for FY 2007:

- Manage the case assignment process to assure that initial filings and response time frames are adhered to, resulting in case assignment averages that are less than the time frames in the Commission's procedural rules.

  Accomplishments: The average time for cases to be assigned to an ALJ was 65 days, well within the goal of 71 days. Penalty cases were assigned within 89 days on average in FY 2007, due in part to the delays in receiving penalty assessments from DOL.

- Issue 90 percent of decisions involving hearings within 90 days of receipt of post-hearing briefs.

  Accomplishments: This goal was not achieved in FY 2007 due to the steady increase in the caseloads of each of the Commission judges, combined with a large volume of cases requiring decisions within overlapping 90-day periods. The goal is measured in dockets rather that the number of hearings held and decisions issued. Multiple dockets are sometimes consolidated for hearing. For example, in FY 2007, two decisions which exceeded the 90 day goal accounted for 17 docketed cases, thereby skewing the results for this goal.

- Issue 95 percent of settlement dispositions within 30 days of receipt of settlement motion.

  Accomplishments: Due to a 65% overall caseload increase since FY 2004, including a steady increase since FY 2006, this goal is not being met. Through August 31, 2007, the Commission has issued more settlements (1,261) than it did in FY 2006 through August 31, 2006 (1,213). The increased volume of settlements will result in 20% of settlement decisions being issued outside the 30-day goal.

- Decide 90 percent of cases within 270 days of assignment.

  Accomplishments: This goal exceeded the FY 2007 goal of 90%; 97% of the cases were decided within 270 days.

- Decide all cases within an average of 195 days from receipt by the Commission.

  Accomplishments: This goal was exceeded in FY 2007. On average the Commission Judges disposed of the increased volume of cases in 128 days, substantially below the target of 195 days.

The Commission began FY 2007 with an inventory of 16 undecided cases and received 87 new cases during the year. Eighty-seven dispositions are being made during FY 2007, resulting in 16 undecided cases remaining at the end of the fiscal year.

Of the 87 cases decided in FY 2007, 15 were substantive decisions, 70 were procedural orders, and 2 were denials of petitions for review. The average age of the 16 matters pending on the Commission's docket as of September 1, 2007 was 2.1 months, and the average age of the 15 substantive decisions issued in FY 2007 is expected to be 5.1 months.

During FY 2007, the Commission completed, with the January 18, 2007 publication of a final rule, the promulgation of regulations implementing the MINER Act, i.e., procedures for resolving disputes in connection with underground coal operators' emergency response plans. The rule making process began with the July 18, 2006 issuance of our interim rule upon which public comment was requested. Comments were received from the Department of Labor and representatives of operators and miners.

The Commission developed the following performance objectives associated with its FY 2007 budget. The objectives and accomplishments achieved during the year were:

Objective 1 — **Issue opinions in a timely manner**

Performance Goals for FY 2007:

- All Commission cases will be assigned when briefing is completed

  Accomplishments: This goal was met. All cases were assigned before briefing was completed.

- The Commission will have decided all cases that are 18 months or older.

  Accomplishments: This goal was met. As of September 30, 2007, no case that is 18 months or older will be pending before the Commission.

- The average age of substantive decisions will be maintained at 12 months or less.

  Accomplishments: This goal was met. As of September 30, 2007, the average age of the substantive dispositions is expected to be 5.1 months. This low figure is largely due to the fact that seven related cases were all disposed of within one month. However, even if these cases were disregarded entirely, the average disposition time would be 8.8 months.

Objective 2 — MINER Act Rules

Performance Goals for FY 2007

- Complete the rulemaking by January 2007.

  Accomplishments: This goal was met. The Commission published an interim rule on July 18, 2006, and after receipt of public comment, published a final rule on January 18, 2007.

ANALYSIS OF FINANCIAL STATEMENTS

The main categories of costs for the Commission are in three categories; salaries and benefits, rent and contractual services. As a micro agency with a budget of 44 FTE, the Commission must rely heavily on other Federal agencies to provide the necessary support services required as an independent agency. Personnel, payroll, and accounting, and website posting support is obtained through the Bureau of Public Debt. Space is obtained through the General Services Administration and the majority of building security services are provided by the Federal Trade Commission. Website hosting is provided by the Government Printing Office but will be moved to the Bureau of Public Debt in FY 2006. Utilizing the services of other agencies on a contract basis afford the Commission essential services at an economy of scale cost not obtained in-house. A distribution of costs (obligations) for the two fiscal years covered by the audit is as follows:

	FY 07	FY 06
Salaries and Benefits	5,360,521	5,020,344
Rent	1,253,391	1,279,598
Contractual Services	642,640	603,733
All other	126,482	478,394
Total Resources Used	**7,383,034**	**7,382,069**
Resources Returned	394,618	348,841
Total Appropriation	**7,777,652**	**7,730,910**

The majority of the resources returned is the result of the Commission not achieving its full staffing level in FY 2007 including the 5-member Commission having only three members the entire year.

LIMITATIONS ON FINANCIAL STATEMENTS

The financial statements have been reviewed by the Commission's contract auditors, Brown and Company to assure accurate reporting of the financial position and results of operations of the Federal Mine Safety and Health Review Commission, pursuant to the requirements of 31 U.S.C. 3513. While the statements have been prepared from the books and records of the Commission as maintained by the Bureau of Public Debt in accordance with the formats provided by the Office of Management and Budget, the statements are in addition to the financial reports submitted to the Office of Management and Budget and the Department of Treasury for use in monitoring and controlling budgetary resources, which are prepared from the same books and records.