

**OFFICE OF SURFACE MINING
RECLAMATION AND ENFORCEMENT**

Annual Evaluation Summary Report

for the

**MONTANA
Regulatory Program**

Administered by the Department of Environmental Quality

Evaluation Year 2007

(July 1, 2006 to June 30, 2007)

August 22, 2007

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(Cover photo: Reclamation in progress at Big Sky Mine. Approved sandstone replacement feature with permanent impoundment)

I. Introduction

The Surface Mining Control and Reclamation Act of 1977 (SMCRA) created the Office of Surface Mining Reclamation and Enforcement (OSMRE) in the Department of the Interior. SMCRA provides authority to OSMRE to oversee the implementation of and provide Federal funding for State regulatory programs that have been approved by OSMRE as meeting the minimum standards specified by SMCRA. This report contains summary information regarding the Montana program and the effectiveness of the Montana program in meeting the applicable purposes of SMCRA as specified in Section 102. This report covers the period of July 1, 2006 to June 30, 2007. Detailed background information and comprehensive reports for the program elements evaluated during the period are available for review and copying at the Casper Field Office.

The following is list of acronyms used in this report:

AOC	Approximate Original Contour
CFO	Casper Field Office
MT-DEQ	Montana Department of Environmental Quality
IEMB Bureau	Industrial and Energy Minerals Bureau
MPDES Elimination System	Montana Pollutant Discharge Elimination System
NRCS Service (USDA)	Natural Resources Conservation Service (USDA)
OSMRE Reclamation and	Office of Surface Mining Reclamation and Enforcement
OTT	Office of Technology Transfer
PMT	Post Mining Topography
SMCRA Reclamation Act of	Surface Mining Control and Reclamation Act of 1977
TDN	Ten-Day Notice
TIPS Professional Services	Technical Innovations and Professional Services
WR	Western Region
WRTT Team	Western Regional Technical Team

II. Overview of the Montana Coal Mining Industry

Of the 15 major coal-producing states, Montana ranks first in coal resources and reserves and sixth based on overall

production. Montana's demonstrated coal reserve base is approximately 120 billion tons, or about 24.6 percent of the total U. S. reserve base. Coalfields are found throughout the State, but most are located east of the Continental Divide and in the south central part of the State. Of the 17 coalfields in the State, two (Fort Union and Powder River) currently have producing mines. Montana coal ranges in rank from lignite to high volatile A bituminous, with most of the coal currently mined being sub-bituminous. At the present rate of mining (approximately 40 million tons per year), Montana can sustain over 35 years of mining from the current operating mines.

Coal mining began in Montana over 100 years ago. Early coal production was almost entirely from underground mines and was largely used by smelters, railroads, and for domestic purposes by early settlers of the State. Early underground production ranged from a few hundred thousand tons to peaks of as high as five million tons during World Wars I and II. Larger surface mining techniques after WWII boosted production to a record of nearly 43 million tons in 1998.

Nearly all of Montana's coal production is used in coal-fired electrical generation facilities to produce electrical power; however, small amounts continue to be used for heating and other domestic uses on a limited regional basis.

There are currently twelve active surface and one active underground mining permits in Montana with a total direct industry employment of approximately 5,190 people and an annual payroll of approximately \$56.6 million. Montana's surface mining industry furnishes some of the highest paying and most sought after jobs in the State.

The average size mine is 5,192 acres with a range from 10 acres to nearly 25,500 acres. A total of approximately 62,690 acres are currently permitted in the State. Approximately 34,138 acres of the 62,690 acres permitted have been disturbed by mining and 15,833 of these disturbed acres have been backfilled, graded, topsoiled, and permanently seeded to final reclamation standards (see Table 12).

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

The Office of Surface Mining (OSMRE) has reviewed the Montana coal program with respect to opportunities for and participation in, the public review and permitting activities done by the Montana Department of Environmental Quality (MT-DEQ). This review found that opportunities for public involvement in mine permitting under the Montana program exist at the following levels of their permanent program: 1) all

mine permit applications, major revisions, amendments and test pits, 2) mine permit renewals, 3) mine permit transfers, 4) applications for extensions of time to commence mining, 5) mine permit bond release applications, 6) public road relocations and whenever mining is proposed within 100 feet of a public road, 7) prospecting permits and transfers and 8) prospecting permit bond release applications.

Public notice requirements for most of the program actions listed above consist, at a minimum, of having the applicant place an advertisement in a newspaper of general circulation in the locality of the proposed activity for at least once per week for four consecutive weeks, followed by a 30 day allowance for comment. Any comments received or requests for an informal conference must be formally addressed on the record. Once the mine permitting actions (except for permit transfers) are deemed “acceptable”, the MT-DEQ also publishes a notice of acceptability once per week for 2 consecutive weeks, followed by a 10 day comment period, which again allows the public to participate in the State’s permitting process.

OSMRE’s review indicates that all the required publications are documented and of sufficient content to meet the requirements of the Montana program. The MT-DEQ also has an open door policy of making all permit applications and approved permits available for review. Since Montana is a large state, these documents are available in two office locations within Montana.

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

MT-DEQ continues to develop and improve the MS Access tracking systems for permit revisions, bond releases, inspections, and annual reports. MT-DEQ anticipates that the system will be fully functioning by the end-of-year 2007.

MT-DEQ received an OSMRE “Applied Science Grant” to evaluate and define vegetation, landscape and root zone relationships to enhance the quality and efficiency of permitting and reclamation work. The project was completed during this reporting year. The results are being evaluated to determine their applicability to the ongoing reclamation program.

MT-DEQ initiated a project to develop and implement technical standards for evaluating Phase III (revegetation) bond release applications. The Natural Resources Conservation Service (NRCS) Rangeland Health Assessment methodology is being used as the basic foundation for this effort. Input from within MT-DEQ, mine operators, government agencies,

landowners, environmental organizations and other interested parties has been very positive. With a target date of early spring 2008, MT-DEQ intends to complete development of technical standards for vegetative cover and production, write site-specific ecological site descriptions for each coal mine, and modify the ecological site evaluation as necessary to provide a sound method for evaluating reclaimed vegetation in relation to the requirements for Phase III bond release.

Montana staff participated throughout the report year as instructors in several national OSMRE training courses. Montana also provided technical and regulatory assistance and information to various special interest groups, companies, and individuals regarding Program and mining company issues and responsibilities.

V. **Success in Achieving the Purposes of SMCRA as Determined by Measuring and Reporting End Results**

To further the concept of reporting end results, the findings from performance standard and public participation evaluations are being collected for a national perspective in terms of the number and extent of observed off-site impacts, the number of acres that have been mined and reclaimed, and which meet the bond release requirements for the various phases of reclamation, and number of acres that have been mined and reclaimed and the effectiveness of customer service provided by the State. Individual topic reports are available in the Casper Field Office which provides additional details on how the following evaluations and measurements were conducted.

A. **Off-Site Impacts:**

For the purpose of oversight, an off-site impact is defined as anything resulting from a surface coal mining and reclamation activity or operation that causes a negative effect on people, land, water, or structures outside the permit area. The State program must regulate or control either the mining or reclamation activity, or the resulting off-site impact. In addition, the impact on the resource must be substantiated and be related to mining and reclamation activity. It must be outside the area authorized by the permit for conducting mining and reclamation activities. As a part of this oversight MT-DEQ and CFO developed an oversight work plan to evaluate and document the effectiveness of the Montana program in protecting the environment and the public from negative off-site impacts resulting from

surface and underground mining operations in Montana.

Several sources of information have been selected for identifying off-site impacts. These include but are not limited to: State and OSMRE inspection reports, enforcement actions, civil penalty assessments, citizens' complaints, special studies and information from other environmental agencies. If an off-site impact is identified, the sources of information and the basis used to identify and report these impacts will be clearly recorded. Field evaluations for off-site impacts were conducted during routine inspections by MT-DEQ. CFO only conducted bond release inspections. Only one minor off-site impact occurred during the report period, involving dust leaving a mine site (see Table 4).

MT-DEQ is currently renewing its Montana Pollutant Discharge Elimination System (MPDES) permits for all of the active coal mines. As the MPDES permits are renewed, the Western Alkaline Standards for sediment control are being incorporated into the permits. These standards and the modeling efforts associated with the permits will better define the acceptable sediment loads from a particular drainage, and whether or not an impact (on-site and/or off-site) is occurring and whether the impact is related to a sediment load significantly exceeding the target or significantly below the target sediment load. Both of these could result in an unacceptable, off-site impact. Montana will continue to develop the process of evaluating the impacts of sediment load throughout the upcoming year.

B. Reclamation Success:

OSMRE evaluates the effectiveness of the State program based on the number of acres that have received bond release (Table 5). While the CFO believes this measure does not capture the total effectiveness of the State program in part due to the type of mining operations and the large size of western mining operations and company policies, this measure does not preclude effective reclamation. Montana is developing a regrade review system that when implemented will identify parcels of reclamation that qualify for Phase I (regrade) bond release. Prior to soil laydown, the MT-DEQ will request that all companies submit a soil laydown request, including a figure illustrating the pre-mine topography, the approved PMT and the current regraded topography. Review of the request will determine if the regrade complies with the approved PMT or not. If it does, a Phase I bond

release application will then be basically a formality, as the MT-DEQ will have already approved the regrade.

The CFO believes that the State program is only partially effective in its goal of having all disturbed lands reclaimed to the approved post-mining land use as contemporaneously as possible. MT-DEQ disagrees with this statement. Reclamation is occurring in a contemporaneous manner to the extent that current mine plans that include mining in multiple pits, blending of coal from different pits to meet contract specifications, and temporary cessation of some operations due to economics or lack of demand are to be accommodated. However, as noted above, MT-DEQ is working on facilitating Phase I bond release and working on a process for establishing technical standards and conducting an ecological evaluation for Phase III bond release. Additionally, due to the high cost of reclamation bonds, the companies are actively pursuing methods to reduce the overall amount of bond required for a particular operation, i.e., moving into an area of the mine, completing mining and regrading in as short of time frame as possible and applying for Phase I bond release. As a result the number of acres released from bond is small compared to the number of mined acres actually regraded, soiled and seeded. Reclamation activity has and is occurring in Montana (see Chart 1.). Table 5 catalogues the acreage of land released from bond for Phase I, II and III.

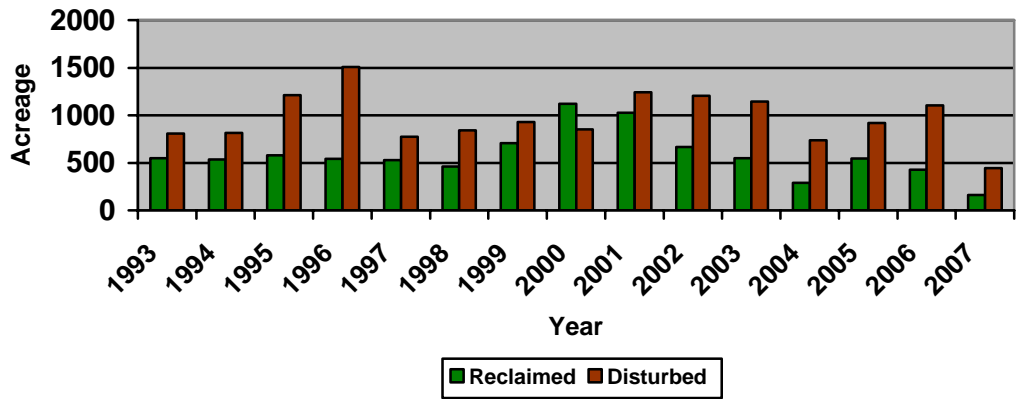
The following charts and graphs are used to highlight CFO's concerns that the rate at which lands are being permanently reclaimed (seeded) compared to the rate of disturbance may not be as contemporaneous as possible. This could be due to the nature of the mining operations in Montana or there could be delays in backfilling & grading or permanent seeding operations due to the mine operations' emphasis on coal production over reclamation.

Figures 1. and 2. illustrate the overall mining and reclamation activities for the Montana coal mines since 1993. Chart 1. provides the actual acres for all mines' disturbance and reclamation. Figure 1. shows that in only one year during that 14 year period, reclamation activities exceeded the disturbance operations.

Figure 2. illustrates the cumulative disturbance and reclamation for the aggregate of all mines. Note that the disturbance bars progressively widening each year. There appears to be a disproportionate increase of

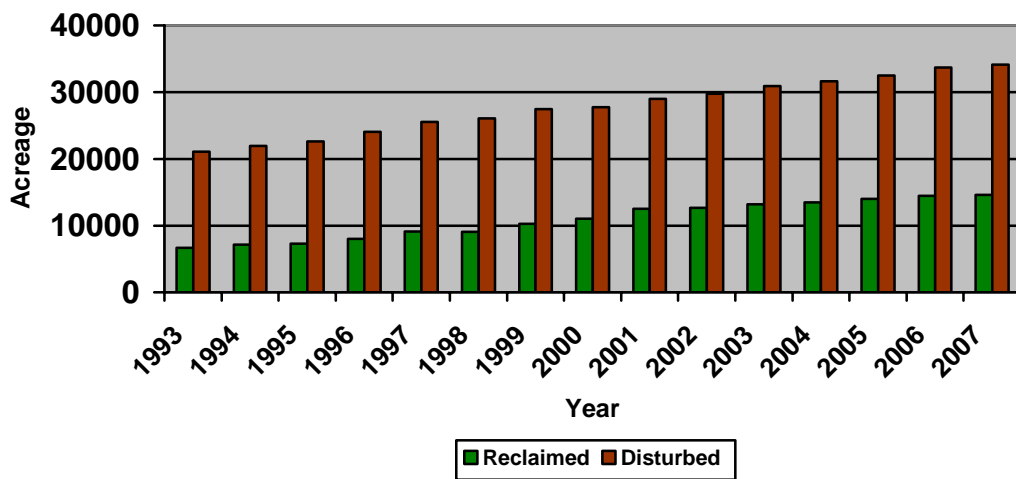
disturbed lands over the reclaimed lands each year.

Figure 1. Annual Disturbance vs Reclamation



Source of data: 2007 Government Performance Reporting Act (GPRA) data collected from MT-DEQ

Figure 2. Cummulative Disturbance vs Reclamation



Source of data: 2007 Government Performance Reporting Act (GPRA) data collected from MT-DEQ

Currently the cumulative reclamation to disturbance ratio is 0.43 to 1.00. This situation has not changed over the past seven the years. Ideally the ratio should be 1 to 1. Preferrably the ratios should have an equal number of values above and below a ratio of 1 to 1. It appears based on the data alone, that the gap between the acres disturbed verses reclaimed is widening, which can indicate a backlog of unreclaimed lands, which could contribute to a delay in contemporaneous reclamation and subsequent bond release. As indicated on Chart 1, the total acres disturbed equals 34,138 and total acres reclaimed equals 41,584 for a ratio of .43 on a statewide basis.

Chart 1. MONTANA RECLAMATION SUMMARY

YEAR	ACRES DISTURBED	Cumulative Acres Dist.	ACRES RECLAIMED	Cumulative Acres Recl.	RATIO OF RECLAM VS DISTURB	Cumulative RATIO OF RECLAM VS DISTURB
1993	807	21,103	550	6,695	0.68	0.37
1994	816	21,966	536	7,141	0.66	0.33
1995	1,213	22,610	579	7,313	0.48	0.32
1996	1,507	24,075	541	8,022	0.36	0.33
1997	773	25,545	527	9,101	0.68	0.35
1998	842	26,061	462	9,084	0.55	0.35
1999	928	27,457	708	10,286	0.75	0.37
2000	853	27,759	1,121	11,038	1.31	0.40
2001	1,241	29,017	1,026	12,511	0.83	0.43
2002	1,205	29,763	666	12,670	0.55	0.43
2003	1,144	30,910	550	13,218	0.48	0.43
2004	738	31,646	288	13,498	0.39	0.43
2005	920	32,502	545	14,006	0.59	0.43
2006	1,103	33,694	426	14,442	0.39	0.43
2007	444	34,138	162	14,584	0.36	0.43

Source: 2007 Government Performance Reporting Act (GPRA) data collect from MT-DEQ

Approximately 12.5 percent of the cumulative disturbed lands on Montana coal mines consist of facilities, such as buildings, ponds, haul roads, pits and other long-term disturbances. These disturbances are necessary in the operation of the mine until mining operations are completed. The total current size of the all Montana coal facilities is reported as 1,922 acres. Even when subtracting the acreage of the facilities from the cumulative disturbance, the ratio of reclamation to net disturbance is 0.45 to 1.00. CFO's is concerned about the status of the other 55 percent of the net disturbance. These disturbed lands maybe be left in spoil ridges, and/or graded and left idle waiting for final reclamation. Reclamation during the year 2000 is the only time reclamation operations exceeded the rate of disturbance in a 14 year period (a ratio of 1.31 to 1). This fact indicates that it is possible for mines in Montana to achieve at least 1 to 1 reclamation to disturbance. MTDEQ has suggested a review of contemporaneous reclamation on a mine by mine basis with OSM-CFO to determine status of any unreclaimed acreage. Both agencies will work together to investigate this concern during the next evaluation period.

Typically in western states with large surface mines, low ratios of reclamation to disturbance are common. CFO has initiated a study in Wyoming which may also include Montana. This study is looking at individual mining operations to determine if

mines are diligently conducting reclamation efforts. CFO will also be interested in MT-DEQ's "regrade review system" mentioned previously to see if reclamation efforts increase.

C. Customer Service:

The coal program in Montana is administered by the Industrial and Energy Minerals Bureau (IEMB), a bureau under the Montana Department of Environmental Quality. IEMB provides service to all parties requesting assistance, documents or information, and regulates the coal mining industry within the State. Its services include, but are not limited to attending or making presentations at public meetings, discussions with individuals or groups regarding the Montana coal program or related regulatory, reclamation, or government activities.

In addition to the services provided to the general public, the coal program staff and management also contribute to task forces and ad-hoc committees in relation to inter- and intra-agency problem solving committees and panels. Some coal program personnel also plan and/or participate in various symposia, seminars, and workshops in relation to technical and legal aspects of coal prospecting, mining, and reclamation.

VI. OSMRE Assistance

A. National Technical Training Program (NTTP)

Six Montana staff members attended NTTP courses during the evaluation year.

B. Office of Technical Training (WRTT)

Montana Department of Environmental Quality's Industrial and Energy Minerals Bureau continues to participate as a member of the Western Region Technology Transfer (WRTT), sharing its technological advances, developing a GIS for bond release, and exchanging electronic information with their industries for the final goal of developing electronic permitting activities. Two Montana staff members attended the Salt Lake City 2007 WRTT Annual Meeting and conference for Geospatial Technologies and Mobile Computing Applications for Bond Release. Both individuals made significant contributions to the meeting.

The Montana TY2005 Applied Science project was completed by the authors at Montana State University and a final report was submitted to OSMRE.

Technology Transfer partnered with Montana's Billings Area Office on the completion of an FY05 Applied Science project:

Vegetation Habitat Analysis to Restore Drastically Disturbed Lands. The report has been finalized and conference presentations of the results are planned. Technology Transfer also coordinated with the Montana program on the submittal of a proposal for the OSMRE Underground Mine Map Initiative, which also utilizes funding from the Applied Science Program.

A service manager visit was conducted at the Billings Area Office, and both the Title IV and Title V Program offices in Helena to better understand the programs' needs and to identify opportunities where Technology Transfer can better partner with Montana personnel as we work to implement regulatory solutions.

OSMRE's Technical Librarian filled two reference requests to the Montana SRA staff members.

C. Technical Innovation & Professional Services (TIPS)

Montana represents Montana, Wyoming and Alaska on the TIPS Steering Committee, and attended the annual Committee meeting in Denver in May 2007.

Montana was the first state to use the RTK (Real Time Kinematic) survey equipment recently purchased by OSMRE (TIPS). Two Montana staff members trained in the field with OSMRE personnel and equipment representatives. One of the Montana people provided a demonstration of the Real Time Kinematic (RTK) GPS unit at the 2007 WRTT Annual Meeting. Onsite vendor training was provided to Montana personnel by TIPS prior to use and demonstration. The field application of the RTK unit, coupled with existing mobile computing technology, continues to advance Montana's electronic permitting efforts.

TIPS Training Attended by Montana Staff for EY 2007

TIPS-SurvCADD for Reclamation & Permitting	2/27/07	\$1,032.54
GPS Analyst for ArcGIS	9/26/06	\$1,214.65
ONLINE: Working with Rasters in ArcGIS Desktop (for ArcGIS 9.0-9.1)	11/2/06	\$ -
TIPS-ARCGIS Spatial Analyst: For Mining & Reclamation	5/1/07	\$2,001.66
Statistics Workshop: Interpretation of Water Quality Data using Statgraphics and AquaChem	9/19/06	\$1,252.66
<u>TIPS-Underground Mine Mapping with GIS</u>	<u>3/27/2007</u>	<u>\$1,942.70</u>
		\$7,444.21

VII. General Oversight Topic Reviews

A. State Program Amendments

The state program amendment process in Montana has been ongoing and constant since the Montana program was originally approved by OSMRE in April 1980. Since that date, in response to rule challenges, court decisions and new rulemaking, the Federal reclamation regulations have also changed and evolved. In most cases, this Federal evolution required corresponding adjustments to the Montana and other state programs. Montana has submitted twenty-three formal amendment packages to OSMRE for review and approval since its original program was approved.

Overall, Montana's program is consistent with SMCRA and the Federal regulations. However, several critical delays in submission of program amendments to OSMRE for review and approval have prevented the program from being in complete compliance with SMCRA. When the MT-DEQ finishes and approves rule changes through their internal process, there have been delays in submission of these new rules to OSMRE for review. If these changes are not as effective as the requirements of SMCRA, OSMRE must disapprove the new rules and the process may have to start over again. These delays in submittal have the potential to create some confusion as to which rules are in effect as this approval process plays out. OSMRE has also experienced delays in our review of the State submittals. OSMRE must get concurrence on our review of the State programs from the Office of the Solicitor. That concurrence has been affected by personnel availability and workload priorities, making timeliness difficult. Both OSMRE and the MT-DEQ are trying to streamline and improve the amendment approval process through better cooperation and communication on both the Federal and State levels.

During this evaluation period, Montana had three active amendments in OSMRE's formal review process. These packages address rule changes (adopted by the state in October 2004) made necessary by statutory changes from the 2003 legislative session (submitted to OSMRE 8/29/05) and statutory changes made during the 2005 legislative session (submitted 1/18/06). The final approval decision on 2003 legislative changes (submitted 8/29/05) should be published in the Federal Register in late July, or early August 2007. The third amendment package was submitted November 6, 2006, which includes rule changes for civil penalties. OSMRE's review of the second and third amendment packages were combined into one review. The draft Federal Register Notice with the proposed decision for the two combined amendments has gone to OSMRE's solicitor's Office for review and comments.

Based on other statutory changes made in the 2005 legislative session, including bond release application procedures, and the need for various other rule changes identified by the Montana program, it is projected that submittal of another rule amendment package to OSMRE will occur in the second quarter of 2008.

B. Inspection and Enforcement

The MT-DEQ continues to conduct frequent and thorough inspections. MT-DEQ conducted 79 complete inspections and 90 partial inspections for the active permits and eight (8) complete inspections for the two (2) inactive permits. Sixty complete inspections were required for the active permits and four complete inspections for the inactive permit. Ninety-six partial inspections were required for the active permits. MT-DEQ reported 90 partial inspections. Although MT-DEQ has only reported 90 partial inspections, they have exceeded total inspection frequency with the additional complete inspections. MT-DEQ has exceeded the minimum inspection frequency requirements of Federal regulations (30 CFR 840.11) and the Cooperative Agreement (30 CFR 926.30).

The Casper Field Office did not conduct any complete random sample inspections, but did conduct five partial / bond release inspections of coal mining operations in Montana.

MT-DEQ inspection reports are complete, accurately document site conditions and mine activity, and give the status of any violations. The inspection reports have continuity with previous reports. All performance standards were reviewed and documented during complete inspections and the reports contain a discussion of the current mine status. Each partial inspection report documents performance standards reviewed and permit requirements reviewed as well as the portions of the mine site inspected.

MT-DEQ maintains an inspectable units list and an inspection data base sufficient to meet its program requirements (See Table 3).

MT-DEQ issued 5 Notices of Violation and no Imminent Harm or Failure to Abate Cessation Orders during this evaluation period (See Table 10). No patterns of violation exist or show cause hearings or alternative enforcement action (bond forfeiture) were initiated during this evaluation period.

The CFO did not issue any Ten-Day-Notices (TDNs) during this review period.

An issue identified in the previous annual evaluation summary report (EY2006) regarding final pit impoundments located at the base of exposed or ungraded highwalls was resolved. The Western Regional Director determined that the final pit impoundments at the base of a highwalls replaced similar features removed or destroyed by mining within the permitted area.

C. Bond Release

The CFO and MT-DEQ agreed to evaluate and document the status of reclamation through the routine monthly, quarterly and annual inspections and annual report reviews, to document a determination as to its acceptability / availability for bond release. This review identified areas that are available for release, as well as, those that are not and any additional work that is required.

This approach streamlines the bond release process by annually identifying for the operator areas available for bond release and areas needing further work prior to release as the evaluations have been completed and findings are documented.

APPENDIX A

Tabular Summaries of Data Pertaining to Mining, Reclamation and Program Administration

These tables represent data pertinent to mining operations, State and Federal regulatory activities within Montana. They also summarize funds provided by OSMRE and the Montana staffing. Unless otherwise specified, the reporting period for the data contained in all tables is the 2007 evaluation year (July 1, 2006– June 30, 2007).

NOTE:

When OSM's Directive REG-8, Oversight of State Programs, was revised in December 2006, the reporting period for coal production on Table 1 was changed from a calendar year basis to an evaluation year basis. The change was effective for the 2007 evaluation year. In addition to coal production figures for the current year, Table 1 also contains the coal production figures from annual evaluation reports for the two most recent prior years. Therefore, for the 2007 annual evaluation report, coal production figures are provided for 2005, 2006 and 2007. In order to ensure that coal production for these three years are directly comparable, the calendar year production figures from the 2005 and 2006 annual evaluation reports were recalculated on an evaluation year basis (July 1 – June 30). This should be noted when attempting to compare coal production figures from annual evaluation reports originating both before and after the December 2006 revision to the reporting period.

TABLE 1			
Coal Produced for Sale, Transfer, or Use			
(Millions of Short Tons)			
Period	Surface Mines	Underground Mines	Total
Coal production^A for entire State:			
Evaluation Year			
EY 2005	34.362	0.193	34.555
EY 2006	33.973	0.266	34.239
EY 2007	34.141	216.000	250.141
<p>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 evaluation years to include the last full evaluation year for which data is available.</p>			

NOTE:

When OSM's Directive REG-8, Oversight of State Programs, was revised in December 2006, the reporting period for coal production on Table 1 was changed from a calendar year basis to an evaluation year basis. The change was effective for the 2007 evaluation year. In addition to coal production figures for the current year, Table 1 also contains the coal production figures from annual evaluation reports for the two most recent prior years. Therefore, for the 2007 annual evaluation report, coal production figures are provided for 2005, 2006 and 2007. In order to ensure that coal production for these three years are directly comparable, the calendar year production figures from the 2005 and 2006 annual evaluation reports were recalculated on an evaluation year basis (July 1 – June 30). This should be noted when attempting to compare coal production figures from annual evaluation reports originating both before and after the December 2006 revision to the reporting period.

TABLE 2

Inspectable Units

As of June 30, 2007

Coal mines and related facilities	Number and Status of Permits										Permitted Acreage § (100's of acres)				
	Active or temporarily inactive		Inactive Phase II bond release		Abandoned		Totals		Nbr. of Insp. Units ^A	Federal Lands		State/Private Lands		All Lands	
	IP	PP	IP	PP	IP	PP	IP	PP		IP	PP	IP	PP	Total	
	IP	PP	IP	PP	IP	PP	IP	PP	IP	PP	IP	PP	Total		

LANDS FOR WHICH THE STATE IS THE REGULATORY AUTHORITY

Surface mines	0	1 1	1	2	0	0	1	13	14	0.0	328.7	0.2	270.2	599.1
Underground mines	0	1	0	0	0	0	0	1	1	0.0	0.0	0.0	63.9	63.9
Other facilities	0	0	0	0	0	0	0	0	0	0.0	0.0	0.0	0.0	0.0
Total	0	12	1	2	0	0	1	14	15	0.0	328.7	0.2	334.1	663.0

Total number of permits: 15

Average number of permits per inspectable unit (excluding exploration sites): 1.00

Average number of acres per inspectable unit (excluding exploration sites): 4,419.81

Number of exploration permits on State and private lands: 4 On Federallands^C: 2

Number of exploration notices on State and private lands: 4 On Federallands^C: 2

IP: Initial regulatory program sites

PP: Permanent regulatory program sites

A Inspectable units include multiple permits that have been grouped together as one unit for inspection frequency purposes by some State programs.

B When a single inspectable unit contains both Federal lands and State/Private lands, enter the permitted acreage for each land type in the appropriate category.

C Includes only exploration activities regulated by the State pursuant to a cooperative agreement with OSM or by OSM pursuant to a Federal

lands program. Excludes exploration regulated by the Bureau of Land Management.

TABLE 3

State Permitting Activity

As of June 30, 2007

Type of Application	Surface mines			Underground mines			Other facilities			Totals		
	App. Rec.	Issued	Acres	App. Rec.	Issued	A Acres	App. Rec.	Issued	Acres	App. Rec.	Issued	Acres
New Permits	0	0	0	0	0	0	0	0	0	0	0	0
Renewals	3	0		0	0		0	0		3	0	
Transfers, sales, and assignments of Permit rights	0	0		1	1		0	0		1	1	
Small operator assistance	0	0		0	0		0	0		0	0	
Exploration permits										0	0	
Exploration notices B											0	
Revisions (exclusive of incidental boundary revisions)		41			1			0			42	
Revisions (adding acreage but are not incidental boundary revisions)	1	0	1,614	0	1	2,175	0	0	0	1	1	3,789
Incidental boundary revisions	0	0	0	0	0	0	0	0	0	0	0	0
Totals	4	41	1,614	1	3	2,175	0	0	0	5	44	3,789

OPTIONAL - Number of midterm permit reviews completed that are not reported as revisions: 0

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

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

TABLE 4

OFF-SITE IMPACTS (excluding bond forfeiture sites)

RESOURCES AFFECTED		People			Land			Water			Structures		
DEGREE OF IMPACT		Minor	Moderate	Major	Minor	Moderate	Major	Minor	Moderate	Major	Minor	Moderate	Major
TYPE OF IMPACT AND TOTAL NUMBER OF EACH TYPE	Blasting	0	0	0	0	0	0	0	0	0	0	0	0
	Land Stability	0	0	0	0	0	0	0	0	0	0	0	0
	Hydrology	0	0	0	0	0	0	0	0	0	0	0	0
	Encroachment	0	0	0	0	0	0	0	0	0	0	0	0
	Other	0	1	0	0	0	0	0	0	0	0	0	0
	Total	0	1	0	0	0	0	0	0	0	0	0	0

Total number of inspectable units (excluding bond forfeiture sites): 15

Inspectable units free of off-site impacts: 14

Inspectable units with off-site impacts: 1

OFF-SITE IMPACTS ON BOND FORFEITURE SITES

RESOURCES AFFECTED		People			Land			Water			Structures		
DEGREE OF IMPACT		Minor	Moderate	Major	Minor	Moderate	Major	Minor	Moderate	Major	Minor	Moderate	Major
TYPE OF IMPACT AND TOTAL NUMBER OF EACH TYPE	Blasting	0	0	0	0	0	0	0	0	0	0	0	0
	Land Stability	0	0	0	0	0	0	0	0	0	0	0	0
	Hydrology	0	0	0	0	0	0	0	0	0	0	0	0
	Encroachment	0	0	0	0	0	0	0	0	0	0	0	0
	Other	0	0	0	0	0	0	0	0	0	0	0	0
	Total	0	0	0	0	0	0	0	0	0	0	0	0

Total number of inspectable units (only bond forfeiture sites): 0

Inspectable units free of off-site impacts: 0

Inspectable units with off-site impacts: 0

TABLE 5

Annual State Mining and Reclamation Results

Bond release phase	Applicable performance standard	During this Evaluation Year		
		Total acreage released	Acreage also released under Phase I	Acreage also released under Phase II
A	B	C	D	E
Phase I	- Approximate original contour restored - Topsoil or approved alternative replaced	2,410		
Phase II	- Surface stability - Establishment of vegetation	1,294	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	0	0
A Bonded Acreage		Acres during this evaluation year		
Total number of new acres bonded during this evaluation year		3,810		
Number of acres bonded during this evaluation year that are considered remaining, if available		0		
Number of acres where bond was forfeited during this evaluation year		0		
Bonded Acreage Status		Cumulative Acres		
Total number of acres bonded as of the end of last review period (June 30, 2006) B		62,489		
Total number of acres bonded as of the end of this review period (June 30, 2007) B		66,299		
Sum of acres bonded that are between Phase I bond release and Phase II bond release as of June 30, 2007 B		18,072		
Sum of acres bonded that are between Phase II bond release and Phase III bond release as of June 30, 2007 B		99		
Disturbed Acreage		Acres		
Number of Acres Disturbed during this evaluation year		1,216		
Number of Acres Disturbed at the end of the evaluation year (cumulative)		34,313		
A Bonded acreage is considered to approximate and represent the number of acres disturbed by surface coal mining and reclamation operations.				
B Bonded acres in this category are those that have not received a Phase III or other final bond release (State maintains jurisdiction).				

Brief explanation of columns D & E. The States will enter the total acreage under each of the three phases (column C). The additional columns (D & E & E) will "break-out" the acreage among Phase II and/or Phase III. Bond release under Phase II can be a combination of Phase I and II acreage, and Phase III acreage can be a combination of Phase I, II, and III. See "Instructions for Completion of Specific Tables," Table 5 for example.

TABLE 6

State Bond Forfeiture Activity			
(Permanent Program Permits)			
Bond Forfeiture Reclamation Activity by SRA	Number of Sites	Dollars	Acres
Sites with bonds forfeited and collected that were unreclaimed as of June 30, 2006 (end of previous evaluation year) A	0		0
Sites with bonds forfeited and collected during Evaluation Year 2007 (current evaluation year)	0	\$ 0	0
Sites with bonds forfeited and collected that were re-permitted during Evaluation Year 2007 (current evaluation year)	0		0
Sites with bonds forfeited and collected that were reclaimed during Evaluation Year 2007 (current evaluation year)	0		0
Sites with bonds forfeited and collected that were unreclaimed as of June 30, 2007 (end of current evaluation year)A	0		0
Sites with bonds forfeited but uncollected as of June 30, 2007 (end of current evaluation year)	0		0
Surety/Other Reclamation (In Lieu of Forfeiture)			
Sites being reclaimed by surety/other party as of June 30, 2006 (end of previous evaluation year) B	0		0
Sites where surety/other party agreed to do reclamation during Evaluation Year 2007 (current evaluation year)	0		0
Sites being reclaimed by surety/other party that were re-permitted during Evaluation Year 2007 (current evaluation year)	0		0
Sites with reclamation completed by surety/other party during Evaluation Year 2007 (current evaluation year) C	0		0
Sites being reclaimed by surety/other party as of June 30, 2007 (current evaluation year) B	0		0
<p>A Includes data only for those forfeiture sites not fully reclaimed as of this date</p> <p>B Includes all sites where surety or other party has agreed to complete reclamation and site is not fully reclaimed as of this date</p> <p>C This number also is reported in Table 5 as Phase III bond release has been granted on these sites</p>			

TABLE 7	
State Staffing	
(Full-time equivalents at end of evaluation year)	
Function	EY 2007
Regulatory Program	
Permit Review	8.90
Inspection	5.70
Other (administrative, fiscal, personnel, etc.)	1.70
Regulatory Program Total	16.30
AML Program Total	8.85
Total	25.15

TABLE 8

Funds Granted To Montana

BYOSM

(During the Current Evaluation Year)

(Actual Dollars, Rounded to the Nearest Dollar)

Type of Funding	Federal Funds Awarded During Current Evaluation Year	Federal Funding as a Percentage of Total Program Costs
Regulatory Funding		
Administration and Enforcement Grant	\$ 1,023,335	82.94 %
Other Regulatory Funding, if applicable	\$ 0	0.00 %
Subtotal	\$ 1,023,335	
Small Operator Assistance Program	\$ 0	100 %
Abandoned Mine Land Reclamation Funding A	\$ 3,573,931	100 %
Totals	\$ 4,597,266	

A Includes funding for AML Grants, the Clean Streams Initiative and the Watershed Cooperative Agreement Program.

TABLE 9		
State Inspection Activity During Current Evaluation Year		
Inspectable Unit Status	Number of Inspections Conducted	
	Complete	Partial
Active A	79	9 0
Inactive A	8	0
Abandoned A	0	0
Total	87	9 0
Exploration	3	0
A Use terms as defined by the approved State program.		

TABLE 10

State Enforcement Activity

During Current Evaluation Year

Type of Enforcement Action	Number of Actions A	Number of Violations A
Notice of Violation	5	5
Failure-to-Abate Cessation Order	0	0
Imminent Harm Cessation Order	0	0

A Do not include those violations that were vacated.

TABLE 11

Lands Unsuitable Activity		
During Current Evaluation Year		
	Number	Acreage
Number Petitions Received	0	
Number Petitions Accepted	0	
Number Petitions Rejected	0	
Number Decisions Declaring Lands Unsuitable	0	0
Number Decisions Denying Lands Unsuitable	0	0

APPENDIX B

Montana's Comments and Casper Field Office Responses

Montana Department of Environmental Quality provided hand written comments on the "Draft Annual Evaluation Summary Report" dated July 30, 2007. Most of MDEQ's comments were typographical errors, and minor editorial preferences which are not reflected on this section but were corrected within the document. The substantial comments are listed below with CFO's responses.

MTDEQ's Comment: Indicated the following change to the cover page photo description from "(Cover photo: final reclamation at Big Sky Mine)" to: "Reclamation in progress at the Big Sky Mine. Approved product – permanent impoundment with associated sandrock feature."

CFO's Response: The following change was made to reflect MTDEQ's suggested change: "(Cover photo: Reclamation in progress at Big Sky Mine. Approved sandstone replacement feature with permanent impoundment)."

MTDEQ's Comment: Page 2, second full paragraph first line read "There are currently twelve surface and one underground active mining permits in." MTDEQ suggested the following "here are currently twelve active surface and one active underground mining permits in."

CFO's Response: CFO made the change.

MTDEQ's Comment: Page 5, third paragraph, last sentence. MTDEQ suggested the following: "This ~~could be~~ **IS** due to the nature of the mining operations in Montana ~~or there could be delays in backfilling & grading or permanent seeding operations due to the mine operations' emphasis on coal production over reclamation.~~".

CFO Response: CFO disagrees with the suggested change. The intent of this sentence is not to be conclusive as the contemporaneous reclamation of the large acreage of non-reclaimed mined lands. CFO remains open-minded as the cause including the nature of the mining operations in Montana, but intends to investigate the backlog of non reclaimed lands on a mine by mine basis as suggested by MTDEQ. No change to this sentence was made in the final document based on MT DEQ's comment.

MTDEQ's Comment: Page 6, last paragraph, (comment is referring to non-reclaimed mined lands) "Another factor is the opening of new areas within the active mine permit area (e.g., amendment areas). Initial(ly) there is an increase in disturbance; however, as noted above" (referring to the previous comment).

CFO Response: CFO's analysis of the cumulative reclamation and disturbance on a state-wide basis is a generalization. The concern is the widening of the gap between the disturbance and reclamation. CFO consider this a indicator that further investigation is warranted on a mine by mine basis working with MTDEQ

MTDEQ's Comment: Page 7, first paragraph, "Maybe CFO should review the stats w/ MDEQ on a mine by mine basis to determine what acreage is unreclaimed and why."

CFO's Response: CFO agrees with MTDEQ and added the following to page 7, first paragraph: "MTDEQ has suggested a review of contemporaneous reclamation on a mine by mine basis with OSM-CFO to determine status of any unreclaimed acreage. Both agencies will work together to investigate this concern during the next evaluation period."