



## **Office of Surface Mining Reclamation and Enforcement**

### **Annual Evaluation Summary Report of the Regulatory and AML Programs**

**Administered by the**

**Ohio Department of Natural Resources  
Division of Mineral Resources Management**

**for**

**2007 Evaluation Period  
(July 1, 2006 to June 30, 2007)**

**FINAL REPORT  
September 2007**

## Executive Summary

During this evaluation period, July 2006 through June 2007, the Ohio Division of Mineral Resources Management (Ohio) experienced significant changes to their staffing complement and program content which continue to exacerbate their efforts to fully implement their approved SMCRA programs. Oversight by the Office of Surface Mining Reclamation and Enforcement (OSM) over the past few years has identified a number of program areas where Ohio's implementation is not keeping pace with regulatory program requirements. As identified in the prior two annual oversight reports, OSM remains concerned about these program implementation deficiencies and is continuing to work with Ohio to develop corrective actions. Efforts to improve these areas have been delayed due to several factors including: statutory changes adopted under Ohio House Bill (HB) 443; Ohio's priority actions in developing procedures to implement the statutory mandates; the early retirement of several middle and upper managers and other experienced staff in the coal regulatory program; transition into a new administration; limited ability to fill staff vacancies, and an overall concern with present and future program funding associated with recent legislative actions. Overall, Ohio program data show that Ohio is continuing to administer SMCRA regulatory and abandoned mine land (AML) programs in compliance with minimum State and Federal standards with noted exceptions.

Ohio submitted Program Amendment (PA) #81 to OSM on December 19, 2005. This amendment was Ohio's response to OSM's May 4, 2005, notification pursuant to 30 CFR Part 733. The notice required Ohio to address their alternative bonding system (ABS) deficiencies to avoid OSM's recommending that the Secretary of Interior withdraw approval of all or part of the State program. In May 2006, OSM reviewed the amendment and notified Ohio of several issues that must be resolved. Ohio decided not to respond to OSM's issues, as negotiations with the mining industry were on-going. In November 2006, the Ohio Legislature combined HB 488 (PA #81) with HB 443, an Ohio Department of Natural Resources (ODNR) omnibus bill. HB 443 was passed by the Legislature in December. It was signed into law on January 4, 2007. The enacted legislation was effective on April 4, 2007. In March, Ohio withdrew PA #81 and submitted enacted HB 443 to OSM as PA #82. OSM completed their initial review of the amendment. OSM notified Ohio in late July 2007 of several issues that will need clarified or changed before OSM makes a decision on PA #82. Ohio will need to provide additional explanation, modifications, and other material to support the program changes in responding to the identified issues. OSM anticipates that Ohio will develop rules over the coming months to implement the changes to the statute.

Concerns remain regarding adequate staffing to fully implement SMCRA program requirements as previously reported. Ohio continues to point to inadequate staffing resources as their main impediment to full implementation of SMCRA program requirements. OSM does not anticipate much change in this area until transition into the new administration is complete and questions about funding levels provided by HB 443 are resolved. OSM anticipates that additional staff will be needed to meet the provisions of HB 443, although no additional funding has been provided. HB 443 does state the Legislature's intention to provide funding for a management study of Ohio. Currently, those funds have not been appropriated.

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## **I. Introduction**

The Surface Mining Control and Reclamation Act of 1977 (SMCRA) created the Office of Surface Mining Reclamation and Enforcement (OSM) in the Department of the Interior. SMCRA provides authority to OSM to oversee the implementation of and provide Federal funding for State regulatory programs that OSM has approved as meeting the minimum standards specified by SMCRA. This report contains summary information regarding the Ohio Program and its effectiveness in meeting the applicable purposes of SMCRA as specified in section 102. This report covers the period of July 1, 2005, through June 30, 2006. Detailed background information and comprehensive reports for the program elements evaluated during the period are available for review and copying at the Columbus OSM Office.

The following acronyms are used in this report:

A&E	Administration & Enforcement
ABS	Alternative Bonding System
ACSP	Appalachian Clean Streams Program
AMD	Acid mine drainage
AMDAT	Acid-mine drainage abatement and treatment plan
AML	Abandoned mine land
AMLIS	Abandoned Mine Land Inventory System
ARRI	Appalachian Regional Reforestation Initiative
BFO	Bond Forfeiture Order
CCB	Coal Combustion By-product
CO	Cessation Order
CURSML	Council on Un-Reclaimed Strip Mined Lands
CFR	Code of Federal Regulations
EY	Evaluation Year
FRA	Forestry Reclamation Approach
FTACO	Failure-to-Abate Cessation Order
FTE	Full-time equivalent
HB	Ohio House Bill
HRWRP	Huff Run Watershed Reclamation Partnership
MCRP	Monday Creek Restoration Project
NOV	Notice of Violation
NEPA	National Environmental Policy Act
OCA	Ohio Coal Association
ODNR	Ohio Department of Natural Resources
Ohio	Ohio Division of Mineral Resources Management or State of Ohio
OSM	Office of Surface Mining Reclamation and Enforcement
PA	Program Amendment
SMCRA	Surface Mining Control and Reclamation Act
USFS	U.S. Forest Service

## II. Overview of the Ohio Coal Mining Industry

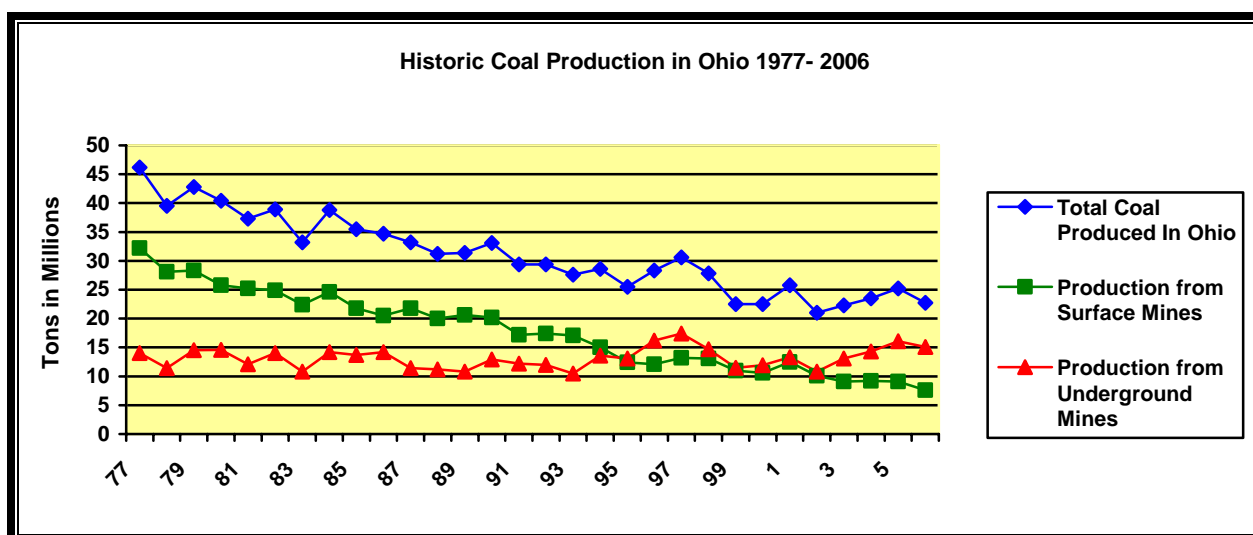
Thirty-two mining companies produced 22.7 million tons of coal in 2006, a 10 percent decrease from 2005 production. Production so far in 2007 is showing little change. The total coal sold in 2006 was 22.6 million tons with a value of \$618 million. The average price per ton of coal was \$27.47, up by 6 percent from \$25.89 in 2005.

The number of coal-producing companies (32) in Ohio in 2006 decreased from 33 in 2005. The number of producing mines decreased from 90 in 2005 to 85 in 2006.

During 2006, surface mining operations at 74 mines produced 7.6 million tons (33 percent of total production). Coal production from surface mines in 2006 decreased by 16 percent from 2005. Underground mining at 11 mines produced 15.1 million tons (67 percent of total production). Coal production from underground mines in 2006 decreased by one million tons, about 6 percent from 2005. Longwall mining of 9.3 million tons accounted for 61 percent of the total underground production (41 percent of total production). The trend, started in 1995, has continued where coal produced from underground mines has exceeded that produced by surface mines. Underground mine production is increasing and surface production is continuing to decrease.

Ohio's coal industry employed 2423 people in 2006, a decrease of 2 percent over 2005. Production employees, numbering 1572, accounted for 65 percent of the 2006 coal work force.

Ohio remained in 13<sup>th</sup> place among the 26 coal-producing States in the nation and produced 2 percent of the nation's coal in 2006. Ohio remained in fourth place nationally in coal consumption, behind Texas, Indiana, and Pennsylvania.



Note: Production data provided in Table 1 in Appendix A is based on data provided to OSM from mine operators and is reported on the evaluation year, not calendar year basis. Data in Table 1 was previously reported by calendar year so comparisons to prior years will show some inconsistencies due to changes in the reporting period. Production data reported in this section is based on data from the Ohio Department of Natural Resources, Division of Geological Survey, Report on Ohio Mineral Industries and is reported on a calendar year basis. Therefore, data will differ from that reported in Table 1.

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

As reported in previous oversight reports, Ohio has continued several efforts to keep the public informed of activities related to mining and reclamation, in addition to the routine public participation opportunities specified in the Ohio program. Ohio has continued to improve and update its web site. Ohio has continued to meet with a group of industry representatives on a quarterly basis to discuss field and program concerns and issues. This year, Ohio assigned teams of Ohio, OSM, and industry representatives to develop procedures for implementing provisions of enacted House Bill 443. Numerous team meetings began in March and will continue for several months as the teams develop procedures and rules to implement the provisions of the new law.

Ohio has continued to promote its abandoned mined land (AML) educational outreach initiative. The goal of this initiative is to educate individuals, groups, and government agencies concerning the potential building problems associated with AML. Ohio distributes information packets to county engineers, health departments, township trustees, county planners, and soil and water districts. The packets explain Ohio's policies regarding building and development on AML. Ohio is in the process of updating these packets.

Ohio is working on legislation that would require property sellers to request that Ohio provide mining records relative to property being sold. The property seller would then disclose on their real estate disclosure statement the outcome of Ohio's review of mining records. This disclosure will provide property buyers constructive notice of any known mining history on property being purchased.

Ohio held its sixth annual Applied Research Conference at Ohio University. The conferences "provide mineral resource professionals with an opportunity to discuss current issues and new research and technologies relating to mineral resources extraction..." The conferences are attended by representatives of State and Federal agencies, watershed groups, mineral extraction industries, consultants, and students. OSM attended and participated in this event.

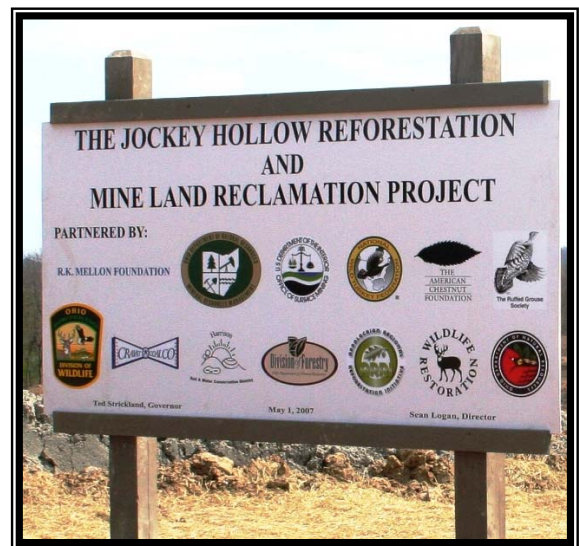
#### **OSM Outreach**

In addition to outreach efforts by Ohio, OSM also conducts public outreach. OSM, likewise, did not implement any new public outreach initiatives during Evaluation Year (EY) 2007. OSM continues to provide a bi-monthly newsletter to interested parties representing State and Federal agencies, coal mining and environmental organizations, and citizens who have asked to be on our mailing list.

### Appalachian Regional Reforestation Initiative (ARRI)

On May 1, 2007, an Arbor Day celebration was held at the Jockey Hollow Reforestation and Mine Land Reclamation Project. Project partners included: ODNR's Divisions of Wildlife, Forestry, and Mineral Resources Management; OSM; Cravat Coal Company; American Chestnut Foundation; Harrison County Soil and Water District; National Wild Turkey Federation; Ruffed Grouse Society; Wildlife Restoration, R.K. Mellon Foundation, and Ohio University. The event lauded the reclamation of a mine site using the Forestry Reclamation Approach (FRA).

The site was mined and reclaimed by Cravat Coal Company on property owned by the State of Ohio and managed by the Ohio Division of Wildlife. The reclamation of the site illustrated the use of the FRA's five-step approach to encourage successful tree growth.



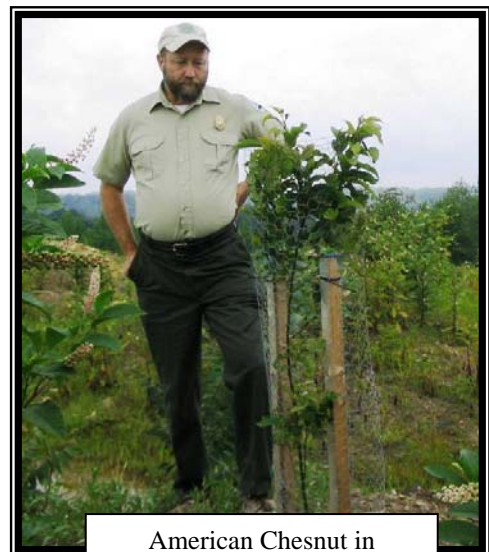
American Chesnut Planting in March 2007



Over 33,000 hardwoods trees were planted on the 50-acre site, including 200 - 15/16ths pure American Chestnuts; 3,300 Black Chokeberry; 3,300 Silky Dogwood; 2,000 Hazelnut; 1,500 American Plum; 2,000 American Crabapple; 7,000 White Oak; 7,000 Shumard Oak; and 6,900 Red Oak. The Chestnuts were planted by Ohio University staff and students. The photos

show the early success of the American Chesnut planting using the FRA. After only four months, the growth of the Chesnut trees and the natural succession of other species of vegetation, without seeding, are impressive.

Local 5<sup>th</sup> and 6<sup>th</sup> grade students from the Lakeland Harrison County Elementary School also planted 100 Sycamore and 100 Buckeye trees. The students' tree-planting was part of training on mining and reclamation that the Harrison County Soil and Water District, Ohio, and OSM conducted in the classroom.



American Chesnut in July 2007

### ARRI Workshops

Ohio and OSM, in conjunction with the Ohio Division of Forestry, held two one-day reforestation workshops in Ohio during EY 2007 with approximately 70 people attending. Attendees included representatives from Ohio, Division of Forestry, Division of Wildlife, the mining industry, citizen groups, tree-planting companies, consultants, and landowners.

The workshops included presentations on ARRI, FRA, suitable rooting medium, grading practices, ground cover selection, species selection, and successful planting techniques. At the conclusion of the workshops, attendees were asked to sign the Statement of Mutual Intent for ARRI. The statement indicates the desire to work together to promote and encourage the planting of more trees on mine sites using FRA technology. Over 40 people signed the statement.

### ARRI Award to Sterling Mining

Each year the ARRI core team honors reclamation operations from each state in the Appalachian Region for exemplary reforestation practices used in reclamation. Sterling Mining Corporation was the recipient of the 2006 Reforestation Initiative Award in Ohio.

When Sterling Mining began reclamation, they employed standard reclamation practices with the spoil compacted into place with repetitive bulldozer passes creating a smooth compacted surface on which a veneer of topsoil was placed. The company met with ARRI team representatives to discuss reforestation options prior to topsoil placement. Sterling then decided to include tree species in the vegetation plan. To increase the survival and productivity of trees on the reclaimed site, Sterling ripped the spoil material. Topsoil was then replaced and protected from erosion in the fall of 2005. In the spring of 2006, Sterling seeded the area with a tree-compatible ground cover that included black locust seed. Sterling then planted Eastern white pine, green ash, red oak, sweet gum, and swamp white oak on the area.

The effort that Sterling Mining put into forestry reclamation on this site shows their commitment to the reforestation initiative and to improved reclamation practices.

### New ARRI Promotion

In late EY 2007, a committee was formed to further promote use of the FRA for reclaiming surface mines. The committee includes representatives from Ohio, OSM, a coal company, and a local community conservation organization. The committee will encourage landowners and the mining industry to reclaim more surface mines using the FRA and promote planting of high quality trees and increasing survival.



### Interactive Forum on Coal Combustion By-Products

OSM and Ohio State University held an interactive forum in Columbus, Ohio, regarding coal combustion by-products (CCB). The forum included a tour of a power generation facility, a CCB landfill, and several sites where CCBs are providing a beneficial use including: backfill of an abandoned highwall, stabilization of a landslide on a state highway, base material for a parking lot, and sealing an abandoned underground mine. The forum was attended by representatives of academia, mining industry, power companies, regulators, and others.

## **IV. Major Accomplishments/Issues/Innovations in the Ohio Program**

### **A. Program Accomplishments and Initiatives**

#### **On-the-Ground Accomplishments**

Ohio continues to effectively administer SMCRA regulatory and AML programs to protect coal-field citizens and to restore land to pre-mining conditions.

Observations regarding industry compliance and off-site impacts are supported by OSM's findings from 144 site visits on regulated mine sites, other oversight evaluations conducted during this review period, and by Ohio's inspection and enforcement information. In addition, OSM conducted 34 site visits on AML projects and AML emergency or potential emergency projects to monitor Ohio's AML activities. Section VII of this report contains additional information on the site visits conducted.

Ohio conducted 3728 inspections on 321 inspectable units this year. Ohio conducted the required number of inspections on an average of 90.2 percent of the mine sites. Ohio issued 118 enforcement actions during this evaluation period, a 14 percent decrease from last year.

OSM's evaluation of off-site impacts, based mainly on Ohio's enforcement actions, identified 64 off-site impacts, compared to 66 off-site impacts last year. While the number of off-site impacts has continued to decrease, the percent of sites free of off-site impacts in EY 2006 was 90 percent compared to the 88 percent free of off-site impacts this year. The number of encroachment and instability impacts were reduced, although the number of hydrology impacts increased by 57 percent over last year. No off-site impacts were classified as causing a major impact this year.

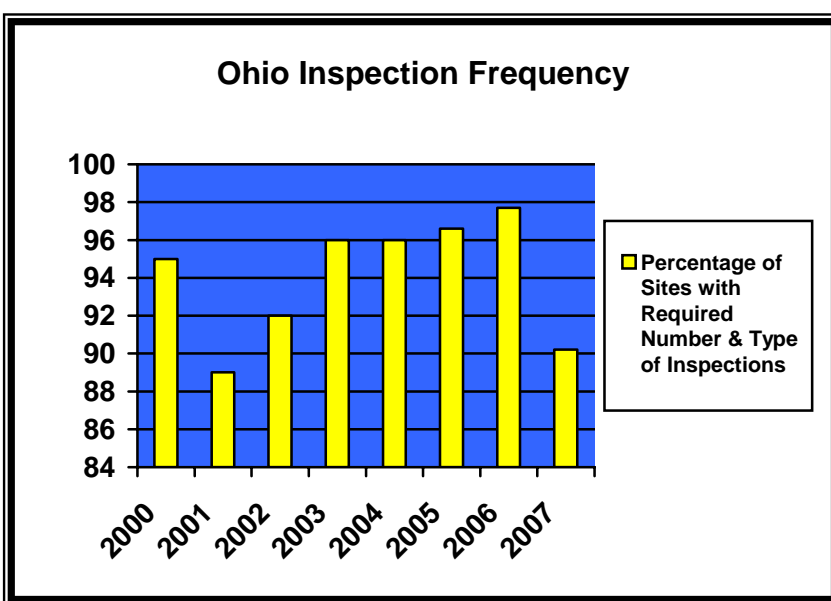
During EY 2006, the Ohio mining industry, in conjunction with the Ohio Division of Mineral Resources Management, achieved final reclamation (Phase III bond release) on 3462.0 acres; established soil replacement and vegetation for Phase II bond release on 3073 acres; and backfilled and graded mined areas for Phase I bond release on 2662 acres. Ohio completed initial reclamation on five bond forfeiture sites covering 114.5 acres and replaced a water supply on a forfeiture site reclaimed in previous years. Ohio issued no bond forfeiture orders in EY 2007.

The on-the-ground, end-result of the mining and reclamation process continues to be predominantly restoration of mined lands to a pasture/grazing post-mining land use, with permanent water impoundments interspersed to support the land use. Based on a sample of about 65 OSM inspections, the land uses identified in permit applications before mining were: 82 percent undeveloped, 13 percent pasture/grazing, 4 percent cropland, and 1 percent other. The post-mining land uses identified were: 16 percent undeveloped, 77 percent pasture/grazing, 4 percent cropland, and 3 percent other. These percentages are comparable to prior years.

## **Regulatory Program Accomplishments**

### **Inspection Management**

Late last year, Ohio implemented a priority-ranking process for conducting inspections in an effort to direct inspection resources to those sites that present the most risk for potential problems; i.e., active sites. As expected, the priority ranking has impacted the number of sites on which the required number and type of inspections was conducted. Ohio expects that the quality of inspections and compliance will improve on the higher priority sites with little risk of problems on low priority sites that are not inspected at the required frequency.



Ohio provides OSM with quarterly summaries of the inspection history on each permit, with a summary accounting of the percentage of sites that received the required number and frequency of inspections. The chart provides the overall average of sites receiving the required number of inspections for an eight-year period.

Ohio reports that the required number and type of inspections was conducted on an average of 90.2 percent of the mine sites during the evaluation period, the lowest percentage since EY 2001.

### **Appeal of Decision on Petition to Designate Lands Unsuitable for Mining**

In EY 2005, Ohio decided the 5035-acre area contained in a petition from the Village of Barnesville was not unsuitable for coal mining. An appeal of this decision was filed with the Ohio Reclamation Commission. The Commission affirmed Ohio's decision in EY 2006. The Commission's decision was appealed to the Seventh District Court of Appeals. A decision on the appeal has not been rendered.

### Final Decision on Appeal of Permit to Mine beneath Dysart Woods

In EY 2005, Ohio successfully defended their issuance of a permit that will allow room-and-pillar mining under the old growth portions of Dysart Woods. The Ohio Reclamation Commission affirmed Ohio's issuance of the permit. The Commission's decision was appealed to the Seventh District Court of Appeals. In March 2007, the Court of Appeals affirmed the Reclamation Commission's decision. This decision was not appealed.

### Final Decision on Appeal of Issuing Proposed Civil Penalties

In EY 2005, a mining company appealed Ohio's issuance of two civil penalty assessments because the proposed assessments were not issued in the time specified by Ohio's program. The Ohio Reclamation Commission ruled that Ohio's issuance of the civil penalties in 252 and 134 days was arbitrary and capricious because the Ohio law requires that proposed penalties be issued within 30 days. The Commission vacated both of the proposed penalties. Ohio appealed the Commission's decision to the Seventh District Court of Appeals. The Court of Appeals affirmed the Commission's decision in December 2006.

### Filing Annual Financial Disclosure Statements

As a result of OSM's review of Ohio's request to withdraw Program Amendment #69, OSM discovered that Ohio was not requiring members of the Council on Un-Reclaimed Strip Mined Lands (CURSML) to file annual financial disclosure statements as required for all employees of the regulatory authority. Ohio must review these statements and determine if employees have any prohibited direct or indirect financial interests in coal mining operations. Ohio confirmed that members of CURSML are considered employees by definition. OSM notified Ohio of this problem in May 2007. Ohio has notified the CURSML members that they must file annual financial disclosure statements and some members have filed statements as of the end of EY 2007. Employee filing of annual financial disclosure statements is generally required in February.

### Hydrology Database Development

In EY 2006, Ohio entered into a contract for development of the Environmental Information Management System Water Quality Database under a grant from the Groundwater Protection Council. Ohio established a team of State and OSM personnel to provide guidance, monitor development, and review the development of the database. This database will include water quality information from both mining and oil and gas well operations, will provide for tracking of reportable information like quarterly water monitoring results, will enable electronic transfer of water quality data via the Laboratory Information Management System, and will allow users to evaluate water quality trends through graphics interface. Significant progress was made this year in the development of the program, but, due to management changes and the work required for to implement HB 443, work on the project has slowed. Ohio expects to have the database system deployed in EY 2008. This database program will significantly improve Ohio's collection and use of hydrologic information related to mining operations in the state.

### Initial Implementation of Provisions of HB 443

Ohio's interim management team, on very short notice, directed substantial time and attention to legislative hearings and discussions on proposed HB 443 in December 2006. As HB 443 proceeded through the hearing process, ODNR took a neutral position in providing testimony on the primarily coal industry-sponsored bill. Since HB 443 was enacted in January 2007, Ohio has devoted much more time and attention to developing interim implementation procedures that would allow Ohio to issue permits under the new provisions that were effective on April 4, 2007.

Ohio organized four work groups with representatives of the agency, the coal industry, consultants, and OSM to develop these interim procedures and to develop rules in the future. There was an immediate need for interim procedures and other considerations to provide guidance to industry and staff on new and very different requirements for establishing performance security (bond) on mine sites among other program areas. These new responsibilities required Ohio to: consult with other states; consult other Ohio agencies (Taxation, Attorney General, Treasurer, Commerce, etc.); develop a process for estimating reclamation costs on permit applications to be used to establish the amount of performance security need for a site; provide notice to permittees with options of staying in the performance security pool or providing full-cost performance security; modify databases; learn about trust funds and draft trust agreement formats; modify permit application procedures; consider tax collection procedures; change inspection and enforcement procedures; consider different acid-base accounting methods; consider new hydrologic impact evaluation approaches; and address many more program implementation issues. Many of these matters will take much more time to fully develop. However, some have been implemented on an interim basis, but will likely need future revision as more experience is gained. Ohio has issued four permits under the new provisions with only one applicant opting to provide full-cost performance security.

Differing interpretations of the new excise tax provisions of HB 443 on coal mined from existing permits and other provisions resulted in Ohio and the coal industry drafting clarifying legislation through HB 119 that was enacted on July 1, 2007. The latest enacted legislation will likely result in additional changes to procedures. Although OSM has not yet approved any of the provisions of HB 443 or HB 119, Ohio has proceeded with implementation as required by their law.

### AML Program Accomplishments

#### Emergency Program

Ohio received 70 complaints of potential AML emergencies in EY 2007. Ohio identified 21 AML conditions that were referred to OSM for declaration as emergency projects. OSM concurred and declared emergencies on all of the 21 projects during the evaluation period. The emergency projects addressed 19 subsidence-related problems, one landslide, and one site with four recently exposed mine openings. The landslide site has been referred to the non-emergency AML program because no further damage occurred after a six-month period. The 21 emergency projects declared this year approximated the 18 declared last year in number and type. Ohio initiated construction on 22 emergency projects during the year.

### AML Project Accomplishments

Ohio reported the following AML project completions in the Abandoned Mined Land Inventory System (AMLIS). AMLIS is the official OSM record of AML conditions in each state.

Ohio's project completions addressed the following AML conditions during the EY 2007 evaluation period:

- 9.0 acres Clogged Stream Lands
- 2.0 acres Bench
- 3,620 lineal feet Dangerous Highwall
- 23.9 acres Dangerous Landslide
- 5.0 acres of Dangerous Impoundment
- 7 Portals
- 27.5 acres Subsidence
- 47.3 acres Surface Burning
- 22 Vertical Openings
- 43 Polluted Water Supplies, Human Consumption
- 1 Hazardous Equipment or Facilities
- 6.0 acres of Dangerous Piles and Embankments
- 3 Hazardous Water Bodies
- 0.5 acres of Pit
- 107.5 acres of Spoil Area
- 977.6 Gallons per Minute of Water Treated

### Appalachian Clean Streams Program (ACSP)

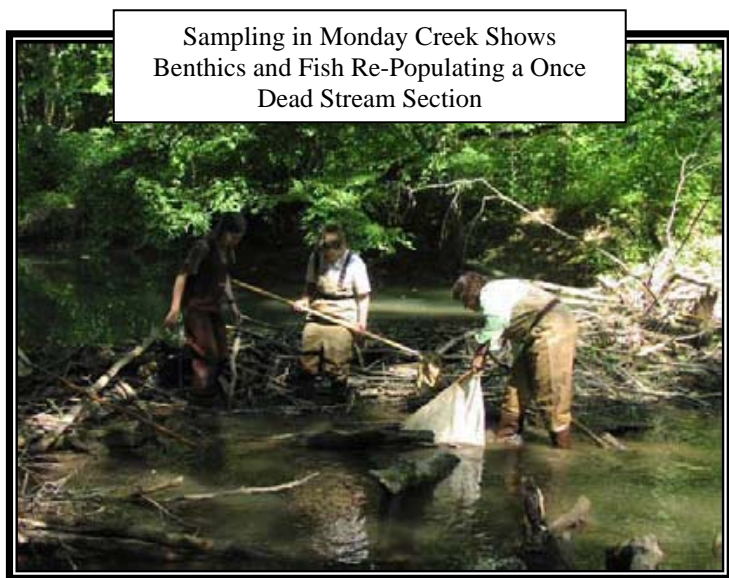
OSM approved one new watershed cooperative agreement totaling \$100,000 during the review period. Ohio is continuing to work with the watershed groups to make full use of this program. However, in some instances, the groups have not submitted timely applications for the cooperative agreements. Ohio has also continued to use the ACSP funds, leveraged with other funding sources, with approximately 58 percent of the \$5.1 million dollars in AML construction completions being for AMD projects. This is mainly due to the high cost of many of the AMD abatement projects.

**Monday Creek:** The Monday Creek Restoration Project (MCRP) continues to be an active and well-organized watershed group involved in AMD abatement. Some of the current activities of the group follow.

The U.S. Forest Service (USFS) has continued to be a strong partner in the watershed, completing several projects where mine subsidence has captured stream flow in the New Straitsville area. The USFS will implement many more such projects in the coming year in the New Straitsville and Lost Run areas.

Jobs and Essex Dosers – The MCRP has continued to operate and maintain these two dosers. This treatment has improved nine or more miles of stream from acid to net alkaline conditions.

Lost Run Phase I – This project was also completed during the evaluation year. The project adds alkalinity to the Lost Run tributary through the construction of leach beds and open limestone channels. Lost Run Phase II is scheduled to start this year.



Sampling in Monday Creek Shows Benthics and Fish Re-Populating a Once Dead Stream Section

Shawnee Wastewater Steel Slag Bed – MCRP has applied to OSM for a watershed cooperative agreement to fund a project that will involve installation of a steel slag leaching bed at the Shawnee sewage plant. The project will use the treated discharge to add alkalinity to improve the amount of stream treated by the Jobs doser. OSM was still awaiting revisions to the application at the end of the review period.

**Sunday Creek:** The group is currently concentrating its efforts on closing subsidence features that capture stream-flow to reduce the amount of AMD generated from the abandoned mines. The construction of the Pine Run Stream Capture project has been completed, and another stream-capture project is expected to start soon. The group has also formed a technical advisory committee to explore treatment options for the True Town Discharge, which is one of the two largest AMD discharges in the watershed.

**Raccoon Creek:** The Raccoon Creek Partners have been a very active watershed in terms of construction activities. The watershed group has completed the following two watershed cooperative agreements approved in the previous year.

Flint Run East – This cooperative agreement project, started in the spring of 2005, diverts drainage away from acid-producing materials, drains several old pits, and treats the residual AMD using passive treatment. It was completed in August 2006. This project, along with the Lake Milton Project, neutralizes the AMD from Flint Run, which is the single biggest producer of AMD in the Raccoon Creek basin.

Lake Milton – This project, involving the construction of a large steel slag leaching bed, was also completed in August 2006.

Monitoring in Little Raccoon Creek has shown significant improvements as a result of the many projects that have been accomplished. Fish populations in the stream are now diverse and with significant numbers, where fish had previously been absent. Now the group is focusing on the headwater and middle sections of the Raccoon Creek main stem. Two projects in these areas will address AMD as follows:

East Branch Phase I – This project will add alkalinity to the headwaters of Raccoon Creek through the installation of steel slag beds and open limestone channels. The contract was issued in May 2007, at a cost of \$1,001,053.00 and is currently under construction.

Pierce Run – This project will also utilize steel slag beds in combination with wetlands created by installing limestone berms across the stream channel. The project has been delayed due to pending acquisition of the 319 grant from OEPA.

**Huff Run:** The Huff Run Watershed Restoration Partnership (HRWRP) has also made effective use of OSM's watershed cooperative agreement program through the following significant construction activity.

Harsha North – This project, which received an OSM cooperative agreement for \$99,500, was completed in the fall of 2006 at a total cost of \$769,835. The project has reduced AMD by reclaiming toxic spoils, draining old pits, and establishing open limestone channels. Water leaving the site now is pH 7.0 or greater. It was previously around pH 4.0.

Mineral-Zoar AMD Project – This cooperative agreement project was approved in January 2005. The project will use passive treatment to treat AMD that is flowing through the much-visited Mineral City Park. Design work has been completed. However, the expected match money from an EPA 319 grant has not yet been obtained.

Fern Hill Pits – This cooperative agreement project was approved in March 2005. The project will drain old pits that are located above a significant AMD seep to reduce the amount of AMD. Work had not started as of the end of the review period, even though the design is completed. Alternate approaches are being evaluated to see if costs can be reduced.

Thomas AMD Project – This cooperative agreement project was approved for \$100,000 during the review period. It will use an approach similar to the Harsha North Project. It is scheduled to start this year pending acquisition of the 319 grant.

HRWRP has also received a Targeted Watershed Grant from the US EPA for the Beldon Project. This project is also scheduled to start this year.

**Moxahala Creek:** The construction of the Misco West Project was completed in August 2006. The bentonite slurry wall, paid for with a watershed cooperative agreement, has greatly reduced AMD seeping from the gob pile. The group is now working with American Electric Power Company to install a spillway on a refuse dam it owns. This will prevent storm run-off from seeping into the refuse and creating more AMD.

**Yellow Creek:** The watershed group has continued monitoring efforts and holding regular meetings. The group had been reviewing all the AMD sites in the watershed, but had yet to pick an appropriate project for their first effort. Ohio is assisting the group with an acid-mine drainage abatement and treatment plan (AMDAT) study. The group is also using an OSM intern to help with this process.

**Leading Creek:** The Leading Creek Improvement Committee Advisory Council has continued to meet regularly and fund projects related to agricultural practices and sediment control. AMD is mostly encountered in the Thomas Fork tributary that enters Leading Creek near its mouth. The impact of the AMD is less significant due to the backwaters of the Ohio River.

However, a strategically placed doser is being considered to neutralize the acidity in the Thomas Fork tributary. The AMDAT is complete. Other tributaries containing lesser amounts of AMD are being evaluated for potential project sites. However, sedimentation, much of it from past mining, is the chief cause of impairment in Leading Creek. Most of the mines have been reclaimed, but the sediment is not scouring out of the lower sections of the tributaries or Leading Creek itself. They are considering stream modifications and sediment removal.

## **B. Program Issues**

### 733 Process on Ohio's Bonding Program

See discussion in Section VII of this report.

### AMD Inventory

OSM and Ohio continued to evaluate the inventory of long-term AMD-producing sites. The inventory includes active and bond-forfeited sites with actual and potential long-term treatment liabilities. Currently, there are 33 sites on the Long-Term Inventory list. When the inventory began, there were 21 sites on this list.

This year, OSM continued to review and refine the AMD inventory by verifying conditions on the sites through site visits. OSM conducted 30 site visits on 25 permits to continue collecting water quality and quantity data on the previously identified AMD problems.

The procedures that Ohio and OSM developed last year for adding and removing sites from the inventory continue to work well. These procedures identify monitoring frequencies and results for adding and removing permits from the inventory and granting bond releases on permits on the inventory. During this evaluation year, several bond release requests were evaluated on segments of permits on the AMD inventory. Of the ones reviewed, the original AMD issues were no longer a problem and the bond releases were approved. Two permits were removed this year from the long-term list and one from the potential list because of improving site conditions. Seven different permits were added to the Long-Term Inventory List during this evaluation year.

This year, Ohio issued Chief's Orders on eight of the inventory sites. The orders generally establish specific monitoring locations and sampling of discharges associated with the AMD problems on site. The orders also require the development of abatement plans to correct the AMD conditions on the permits. OSM will monitor the progress of permittees' and Ohio's meeting the abatement requirements of these Chief's Orders and their success during EY 2008.



OSM requested information from Ohio concerning their plans for eliminating one of the inventory sites. A bond forfeiture order was issued on this site in the early 1990s. The site was reclaimed by the surety company. Since the site was reclaimed, AMD problems have developed. The site discharges a large volume of very poor quality water. Ohio's response indicates that the site was reclaimed by the surety company, and Ohio determined that reclamation met all standards and released bond in 1995. Ohio did not make a conclusive hydrologic connection between the post-SMCRA mining and the AMD condition.

OSM is currently evaluating Ohio's response. OSM and Ohio plan to continue working together in EY 2008 to refine the site inventory and to develop strategies for abating and/or treating sources of AMD on these sites.

### Coal Waste Disposal

OSM issued a final report in EY 2003 on the disposal of coal-processing wastes. The application requirements to obtain approval for coal-processing waste disposal rely primarily on isolating the refuse material to prevent contact with water. The purpose of this study was to 1) assess the effectiveness of permitting requirements to provide a design that the inspector can evaluate during implementation; 2) to evaluate the operator's implementation of the approved plans; and 3) to review environmental impacts of the disposal of coal-processing waste at surface coal mining operations.

To address the report and recommendations, Ohio assigned a team of technical, permitting, and inspection personnel, and an OSM representative. The team developed guidelines for documenting, monitoring, and communicating AMD issues to the permittee during inspections. Ohio planned for this team to also develop guidelines for ensuring that coal waste disposal follows approved disposal plans in response to OSM's recommendations. In EY 2006, Ohio developed a draft attachment to their permit application that would provide for more extensive acid and toxic-forming materials handling plans. Ohio distributed this draft to the mining industry for their input last year.

In EY 2007, Ohio assigned one of the teams working on HB 443 implementation procedures to reconsider the EY 2006 draft attachment in conjunction with the acid-base accounting provisions of HB 443.

### Underground Mine Pool

Ohio notified a coal company two years ago year to make plans for abating an expected mine water discharge from a developing underground mine pool in the company's closed mine. Discharge from the mine pool was not anticipated when the mining permits were approved in 1984 for this mining complex that opened prior to the passage of SMCRA. Ohio and the company are discussing the extent of possible impacts from an eventual long-term discharge of mine water and ways of preventing or mitigating any problems that may result. Ohio has formally notified the mining company of the need to revise their findings of probable hydrologic consequences in their permit application. Ohio and the mining company made some progress with this issue during EY 2007. Ohio completed review of several permit revisions submitted by the mining company and notified them of needed revisions. The company has not yet responded. Additional discussions and further analysis of the problem is expected to continue in EY 2008.

### Large Slurry Impoundments

In EY 2004, Ohio and OSM completed a final report regarding large impoundments that overlie underground mines in Ohio. The report was in response to impoundment breakthroughs into underground mines in other states. The report concluded that two of four impoundments located within 500 feet of active or known abandoned underground mines present some risk for potential breakthrough. One of the impoundments was substantially dewatered and slurry removal and reprocessing was ongoing until this year. The company has stopped operations and the operation is for sale. Pending the sale and/or reclamation of the site, Ohio will continue to monitor the impoundment during this period of inactivity.

In the EY 2004 annual report, we noted that dewatering and reclamation of the other impoundment was expected to begin because Ohio had approved the final dewatering and reclamation plans. However, during EY 2005, the landowner appealed Ohio's approval of the plan to remove the impoundment. The Ohio Reclamation Commission ruled that the landowner did not have standing to appeal Ohio's approval of the reclamation plan. Ohio issued a Notice of Violation to the permittee when removal of the impoundment was not started in accordance with the approved reclamation schedule. The landowner appealed the Commission's decision denying standing. The appellate court ruled last year that the landowner did have standing and remanded the case back to the Ohio Reclamation Commission. The Reclamation Commission has not yet held a hearing on the remand. The parties have agreed on continuances until October 2007, pending a decision on Ohio's informal review of an application for experimental practice.

Federal and State rules do not allow an impoundment constructed of or impounding coal waste to retain the ability to impound as part of the post-mining land use. Therefore, the permittee applied for an experimental practice that, if approved, would allow the impoundment to remain as part of the post-mining land use. Ohio, with OSM's concurrence, disapproved the company's latest application for experimental practice in November 2006, because the applicant did not or could not make the required demonstrations necessary for approval. The permittee requested informal review of Ohio's disapproval of the application. Ohio has not yet issued a decision on the informal review pending the applicant's providing additional information in support of the experimental practice proposal. This information is expected in August 2007.

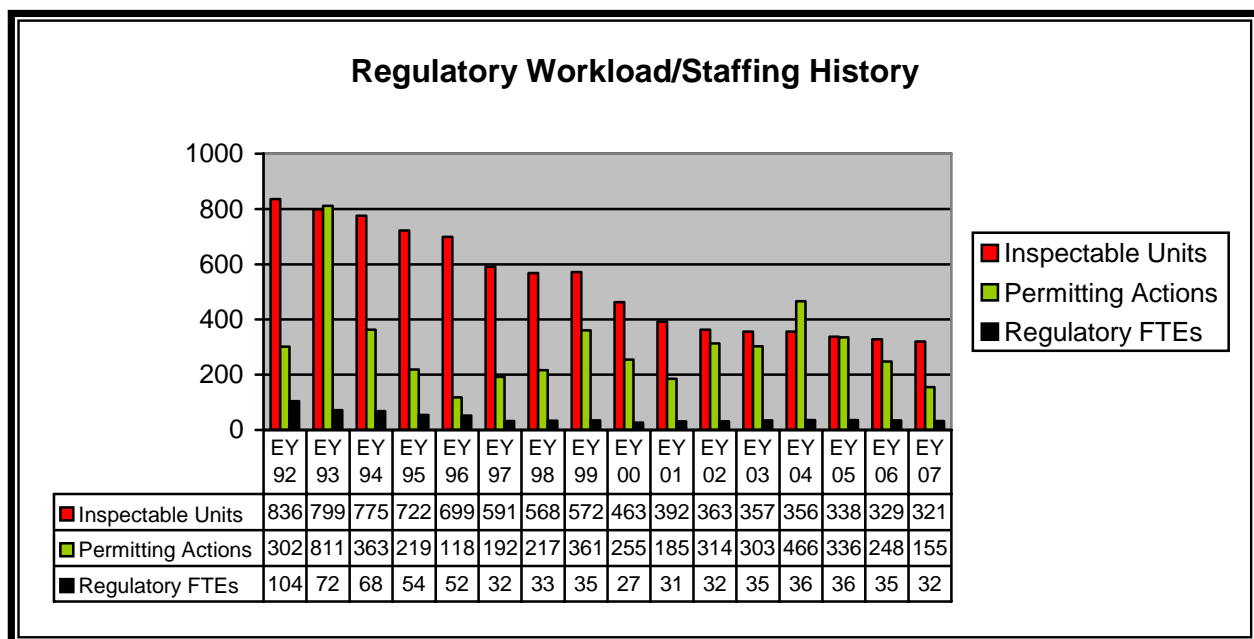
### Regulatory Program Staffing

Questions about adequate staffing to carry out all program requirements reported in last year's report remain. Ohio continued to point to inadequate staffing resources as the main cause of incomplete implementation of several program areas. Until transition into the new administration is complete and funding issues in HB 443 are resolved, OSM does not anticipate much change in this area. OSM expects that additional staff will be needed to meet the provisions of HB 443. However, no additional funding has been provided at this time.

Preliminary data on regulatory program staffing resources among the eight states in the Appalachian Region in EY 2006 show that Ohio's ratio of total regulatory full-time equivalent positions (FTE) to the number of inspectable units remains at 1:9. The regional average was 1:7 with a range of 1:6 to 1:9. When considering only the number of inspection FTEs, Ohio's ratio was 1:23. The regional average was 1:17 with a range of 1:10 to 1:24. Five of the eight states had ratios exceeding 1:20. Ohio continues to have the highest ratio of inspectable units to total regulatory FTEs in the region. Ohio has the next to highest ratio when considering only inspection FTEs.

The number of regulatory program FTEs that Ohio has reported has remained relatively consistent from EY 1997 through EY 2007, averaging 33.1, ranging from 27 to 36. The number of inspectable units decreased by 46 percent from 591 units in EY 1997 to 321 units in EY 2007. The number of permitting actions issued has fluctuated over the last 11 years, but has steadily declined over the last three years. For EY 2007, Ohio reported the lowest number of permitting actions since EY 1996.

This year Ohio reported a small drop in regulatory FTEs to 32.3 from 35 FTEs in EY 2006. Ohio attributed this drop to loss of staff from retirements and vacancies not being filled until later in the year. Some vacancies remain to be filled.



HB 443 states that it is the intent of the Legislature to appropriate \$50,000 to study the management of the financial resources of the coal mine regulatory program. If funds are appropriated, Ohio is to develop an outline of this study in consultation with the Ohio Coal Association (OCA) and an environmental group. Ohio is to then select a third party that has knowledge in the management of finances and submit a report to the Director of ODNR. The intent of this study is to evaluate Ohio's claim of inadequate staff to carry out all provisions of their program. To date, the legislature has not appropriated the funds for this study.

Ohio made several personnel changes during EY 2007. Ohio filled the vacant permitting manager position, filled fiscal officer and grants coordinator positions, created and filled a regulatory engineer position, filled an inspector and a geologist position, and created and filled a manager position in the new Performance Securities Section. Ohio has interviewed candidates for soils specialist and environmental specialist positions. Most of these actions were to fill vacancies, but at least two were newly created positions. Depending on funding availability, Ohio is currently evaluating the possibility of additional new positions including more geologists/hydrologists, a lead hydrologist, and an enforcement coordinator.

### Longwall Mining

OSM oversight reports in EY 2001 and EY 2004 indicated that Ohio had not developed a data collection system to better track impacts from longwall mining and repairs/compensation of those impacts. Ohio reported that they do not monitor impacts to streams absent a complaint. Both reports also identified that mining companies were not providing permanent water supply replacements within 18 months as required by their permits. Although companies are providing temporary water supplies, some permanent replacements have gone unresolved for several years. Ohio planned to assign additional resources to monitoring longwall mining, but has not yet done so. There was no change in this program area in EY 2007 due to other priorities. OSM will continue to encourage Ohio to improve their monitoring of the impacts from longwall mining operations.

### Mid-Term Permit Reviews

Both Federal and Ohio rules require the regulatory authority to review permits no later than the middle of a permit term or every five years, whichever is more frequent. The purpose of mid-term permit reviews is to determine if revisions to the permit are needed to reflect on-the-ground conditions or changes in requirements. Ohio acknowledged that they have not been doing mid-term permit reviews for several years. Ohio also attributes this implementation deficiency to lack of resources and higher priorities for permitting staff. Ohio commented that mid-term permit reviews will be conducted when a permit flaw is identified that is causing an on-the-ground problem. There was no change in this program area from that reported last year.

### Alternative Enforcement Action

In EY 2006, OSM conducted an oversight review of Ohio's implementation of the alternative enforcement provisions of their program. The review found that Ohio was not meeting program requirements or following established procedures that require them to evaluate each cessation order issued for failure to abate a violation (FTACO) that remains unabated for more than 30 days for possible alternative enforcement action to compel abatement. The review identified inconsistencies between law, rules, and, written procedures. There were very limited, if any, defined management controls that monitor implementation of the civil penalty assessment and/or alternative enforcement processes. The review made additional findings and recommendations.

Ohio did not disagree with the findings and indicated they would be hiring an enforcement coordinator to help implement OSM's recommendations. As of this report,

Ohio has not hired an enforcement coordinator due to current funding levels and the uncertainty of future funding. However, Ohio is continuing to consider this position. Ohio issued only two FTACOs in EY 2006 and none in EY 2007. Therefore, their not implementing alternative enforcement provisions has not been a significant program deficiency during the past two years. However, Ohio must have consistent procedures in place and be prepared to implement the alternative enforcement provisions whenever necessary.

#### Grant Administration

OSM identified several concerns with Ohio's administration of Federal grants in EY 2007. The primary issues identified were:

- Ohio didn't obligate a significant amount of awarded funds in the FY 2005 Administration and Enforcement (A&E) grant and took no action to de-obligate these funds prior to closeout of the grant. This resulted in loss of fund availability for other grantees.
- Ohio has not been making drawdowns of available funds in a timely manner. As a result, funds available in the State Clearing Fund under-represent actual funds available for expenditure. This, in turn, resulted in Ohio's being more cautious in making obligations and more likely to have unobligated funds at the end of the grant period.
- Ohio did not charge the proper A&E grant for \$131,000 in expenditures. The FY 2005 grant was charged for expenditures incurred under the FY 2006 grant. Ohio returned the \$131,000 to OSM and entered correct entries into the State accounting system. However, since this is one-year money, the \$131,000 was unavailable for identified Ohio needs and other States' needs.
- Ohio didn't submit timely closeout reports, annual financial status reports, and program narratives.

Ohio attributed most of these issues to inexperienced staff due to recent turnover, lack of a grant-specific tracking method, and lack of cross-training. DMRM committed to provide staff training, cross-training, to adopt new closeout policy/procedures, and to provide monthly, grant-specific spreadsheets on grant balances to OSM. OSM has met with Ohio on these matters and offered to assist in their resolution. OSM will continue to work with Ohio to improve their administration of Federal grants.

#### **V. Success in Achieving the Purposes of SMCRA as Measured by the Number of Observed Off-Site Impacts and the Number of Acres Meeting the Performance Standards at the Time of Bond Release**

To further the concept of reporting end results, OSM is collecting the findings from performance standard evaluations for a national perspective in terms of the number and extent of observed off-site impacts and the number of mined and reclaimed acres that meet the bond release requirements for the various phases of reclamation. Individual topic reports that provide additional details on how OSM conducted the following evaluations and measurements are available in the Columbus OSM Office.

## **A. Off-Site Impacts**

OSM evaluates and reports on the number and extent of off-site impacts as one measure of the success of the Ohio regulatory program in controlling the adverse impacts associated with mining activities.

Our primary source of information for identifying off-site impacts this year came from our review of the Notices of Violation (NOVs) Ohio issued this year. To do this, we reviewed the log sheets Ohio sent to us at the end of each quarter. Those sheets listed the NOVs and Cessation Orders (COs) each of their offices issued. We also reviewed the copies of all of the NOVs and COs that Ohio sent to us. We compiled all of this data onto a spreadsheet for Ohio to review and compare to the data in their enforcement database.

To independently verify Ohio's information, OSM also conducted oversight inspections to determine what impacts may have occurred outside the authorized areas. The spreadsheet we sent to Ohio also included all of the offsite impacts OSM identified during our oversight inspections.

At the end of this evaluation period, there were a total of 321 inspectable units - 233 active sites, 56 inactive sites, and 32 bond forfeiture sites. Ohio usually does not take enforcement action once they have issued bond forfeiture orders. This year, OSM reviewed a sample of 11 bond forfeiture sites to determine if off-site impacts were occurring prior to reclamation of sites. Three forfeiture sites were reported to have a total of six off-site impacts. One caused a moderate impact to land, water, and structure; one had two off-site impacts that caused minor impacts to land and water; and the third one had three minor off-site impacts that caused impacts to land and water.

There were a total of 64 off-site impacts identified on 35 sites other than forfeiture sites during this evaluation period. We counted an impact only once, even if it affected more than one resource. This equates to the identification of off-site impacts on 12 percent of 289 active/inactive permits, with 88 percent of those permits free of off-site impacts. In EY 2006, 90 percent of the active/inactive permits were free of off-site impacts.

Table 4 summarizes the number of resources affected and the extent of the off-site impacts identified. The 64 off-site impacts affected 80 resources of people, land, water, and structures. None caused major impacts, twelve caused moderate impacts, and 68 caused minor impacts. Twelve sites had more than one impact.

Since 2001, the number of off-site impacts had increased every year. However, for the past two years, there has been a decrease in the number of off-site impacts. Last year, we reported a total of 66 off-site impacts compared to 64 reported this year.

The following is a comparison of the types of impacts this year as compared to last year. Note that one off-site impact can be classed as more than one type of impact. For example, a landslide could be classified as both encroachment and instability. Therefore, it would be counted as two types of impacts in the following below. Although the number of off-site impacts decreased by two, the number of resources affected stayed the same as last year.

While the number of encroachment and instability impacts were reduced, the number of hydrology impacts increased by 57 percent over last year. The number of encroachment impacts decreased by 25 percent and the number of instability impacts decreased by almost 85 percent.

<b>Types of Impact</b>	<b>EY 2007</b>	<b>EY 2006</b>
Hydrology	44	28
Encroachment	18	24
Instability	2	13
Blasting	3	2
Other	1	1
<b>Total</b>	<b>68</b>	<b>68</b>
	<b>Resulting in 64 off-site impacts</b>	<b>Resulting in 66 off-site impacts</b>

As we have reported for the last two years, the two most frequently reported off-site impacts are hydrology and encroachment. The most common hydrology impacts reported during this evaluation period were failure to meet effluent standards; failure to minimize disturbance to hydrologic balance; acid-mine drainage; and/or failure to pass drainage through siltation structures. The most common of the encroachment impacts were breached diversion ditches.

We also identified six off-site impacts on three bond forfeiture sites. All three sites were operated by the same company. Those six impacts were all encroachments, with one being of a moderate degree of impact and the rest minor. The resources impacted were land and water. Although Ohio does not routinely issue enforcement actions on bond forfeiture sites, this company has continued to work on reclaiming these sites while appealing the forfeiture orders on their permits. Therefore, Ohio has generally continued to issue enforcement actions on these sites, including those violations that caused the off-site impacts.

Ohio did not report any specific action in response to our recommendations during EY 2006 or EY 2007. During EY 2008, OSM would like to meet with Ohio on a quarterly basis to review the number and types of off-site impacts. Those that are related to hydrology and AMD could then be reported to the OSM and State employees who are responsible for the AMD initiative as well as to the State supervisors.

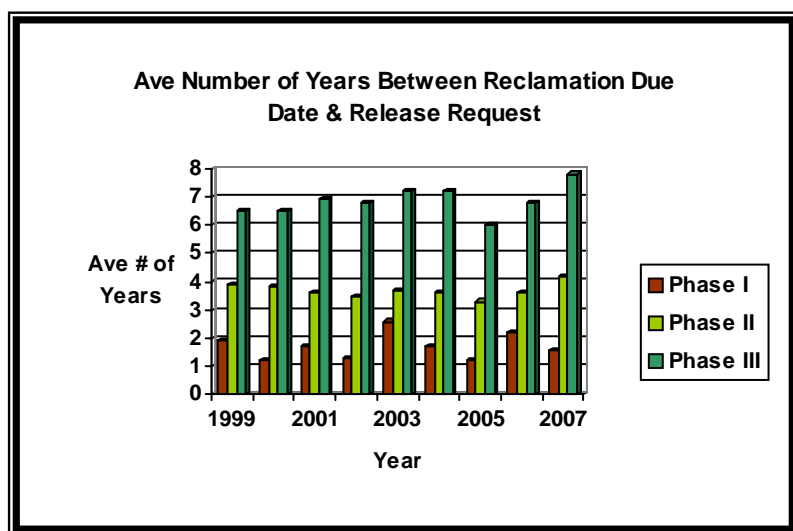
**B. Bond Release and Reclamation Success**

OSM reported inspections on 25 segments on 20 permits or about 13 percent of the reclamation segments that the Ohio District Offices approved for bond release between May 1, 2005, and April 30, 2006. OSM found that Ohio’s approval of bond releases was proper in all reported cases for that period.

OSM measured contemporaneous reclamation using information provided by Ohio for all Phase I, II, and III bond releases the District Offices approved between May 1, 2006, and April 30, 2007. The information provided the date the permittee first identified a segment for reclamation and the date the permittee submitted a bond release request that Ohio approved for that segment. This portion of the evaluation is based on Ohio’s approval of bond release on 195 segments totaling 8017.3 acres. The chart provides the average time frames for each phase of bond release over the last nine years.

Findings from this evaluation concluded:

- Time frames for completing Phase I reclamation ranged from -0.5 years to 11.7 years<sup>1</sup> and averaged 1.6 years on 53 Phase I releases approved by Ohio. Bond release was requested within one year or less on 47 percent of the segments approved for phase I release.
- Time frames for completing Phase II reclamation ranged from 0.1 years to 12.3 years and averaged 4.2 years on 61 phase II releases approved by Ohio. Bond release was requested within two years on 25 percent and within four years on 59 percent of the segments approved for phase II bond release.



- Time frames for completing Phase III reclamation ranged from 0.1 years to 20.8 years and averaged 7.8 years on the 81 phase III releases approved by Ohio. Bond release was requested within seven years on 53 percent of the segments approved for phase III bond release.

During EY 2007, the average time between identification of segments for reclamation and the operator's submitting Phase II and Phase III bond release requests increased to the highest average time in nine years. The exact cause of this increase is not known. Ohio partially attributed this increase to several factors:

- Ohio's procedural changes that require bond release applicants to have all permit revisions approved prior to submitting bond release requests.
- Ohio's not having a soils specialist to evaluate soil restoration and crop yields on restored prime farmland/cropland for the past two years.
- A number of sites with AMD that Ohio must fully evaluate before making decisions on bond release applications.
- An inspection staffing level that has caused "reduced attention" to ensuring that permittees complete all reclamation and paper work necessary to achieve Phase 2 and Phase 3 releases as contemporaneously as practicable.

<sup>1</sup>The number of years is the time between the date when an incremental area or segment was identified for reclamation on the permittee's annual/final maps and the date the permittee submitted a request for bond release. For example, the Year 1 segment of a permit was identified on an annual or final report as ending in July 1998. The permittee submitted a request for Phase I bond release on Year 1 in December 1998. For purposes of this report, the time (rounded to five months) is reported as 0.4 years. Less than one year or a negative number indicates that the bond release request was dated prior to the date the segment was identified for reclamation in an annual report or the permit was finalized before the anniversary date of permit issuance.



As OSM recommended in past oversight reports on contemporaneous reclamation in 2005 and 2006, Ohio should monitor reclamation status on all permits and annual segments. Tracking could be accomplished through periodic reports that could be obtained from DMRM's database on bond releases and reviewed by field managers who would pass on the information to inspectors for follow-up action. This tracking and follow-up could eventually reduce the number of sites and acres needing inspection in the future. Although tracking alone may not totally correct the problem, considering the other major factors that DMRM attributes to the issue, it is an action that DMRM can take that may help. The staffing level is not as easily corrected.

## **VI. OSM ASSISTANCE**

During the evaluation period, OSM provided assistance to Ohio on different initiatives. The purpose of this assistance was to help Ohio more efficiently implement their program. Both OSM and Ohio found that working together cooperatively to resolve problems has been positive and successful. Listed below are brief descriptions of the specific areas where OSM assisted Ohio this year.

### **Review of Permit Application for Potential for AMD**

OSM's Technical Services Division provided technical assistance to Ohio with their review of the hydrology portion of a permit application in a known acid-producing area. OSM's review supported Ohio's determination that mining in the area is likely to produce AMD. After an extensive review, Ohio issued this permit with a detailed special handling plan for the toxic materials. The overburden handling plan requires special blasting and removal plans for the toxic material and the addition of on-site alkaline material to blend into the toxic areas. OSM plans to monitor the mining progress and implementation of the materials handling plan during the coming year. The Technical Services Division also provided consultation and other assistance upon request from Ohio.

### **HB 443 Implementation Teams**

Four OSM staff members are working with Ohio's teams assigned to consider implementation procedures and rules necessary to carry out provisions of enacted HB 443. Participants on the teams include Ohio, mining industry, and OSM representatives. These teams include: Full Cost Bond versus Bond Pool; Performance Securities; Inspection and Enforcement Procedures; and Permitting Procedures. Ohio provided each team with a charter that includes assignments and schedules. To date, some interim procedures have been developed and issued to staff and the mining industry. Rule development has not yet begun.

## **VII. General Oversight Topic Reviews**

### **OSM Oversight Inspections**

During the evaluation period, OSM completed 92 site visits for general compliance monitoring of coal mining operations to assess compliance with performance standards; 33 site visits to evaluate bond releases approved by Ohio; six site visits specifically to obtain seasonal water

quality and quantity data at sites with potential for AMD; four site visits to evaluate bond forfeiture sites, and nine other site visits. In addition, OSM conducted 31 site visits to monitor AML reclamation project construction and three site visits to evaluate potential AML emergencies or to monitor AML emergency project construction.

OSM conducts general compliance monitoring inspections to learn how well Ohio is implementing its program by reviewing the on-the-ground impacts of mining operations. Other inspections are directed at very specific program areas such as bond releases or special oversight studies. Predominately in EY 2007, OSM inspections identified issues related to drainage controls and hydrologic impacts attributed to unpredicted AMD. Hydrology issues, such as AMD and drainage control problems, continue to be the cause of most off-site impacts. In May 2007, OSM issued a Ten-Day Notice to Ohio for construction activities associated with a mining operation conducted without a mining permit. Ohio responded that some of these activities do not need a mining permit. OSM was evaluating their response at the end of EY 2007. One OSM bond release inspection in May 2007, found that a landslide existed at the time Ohio released the Phase 3 bond on an individual reclamation segment. The mining company repaired the slide. Ohio agreed to continue to monitor the reclamation segment prior to any further bond releases on this permit.

OSM received one citizen complaint during the evaluation period. The complainant alleged damage to his property caused by a landslide from a mine site on which Ohio had issued a bond forfeiture order (BFO). The BFO is under appeal. The mining company has continued to perform reclamation activities on many of their sites. Although Ohio opted not to issue further enforcement action in this case due to the issuance of the BFO, the mining company eventually stabilized the landslide and corrected the damage to the complainant's property.

#### Study of Stream Impacts from Longwall Mining

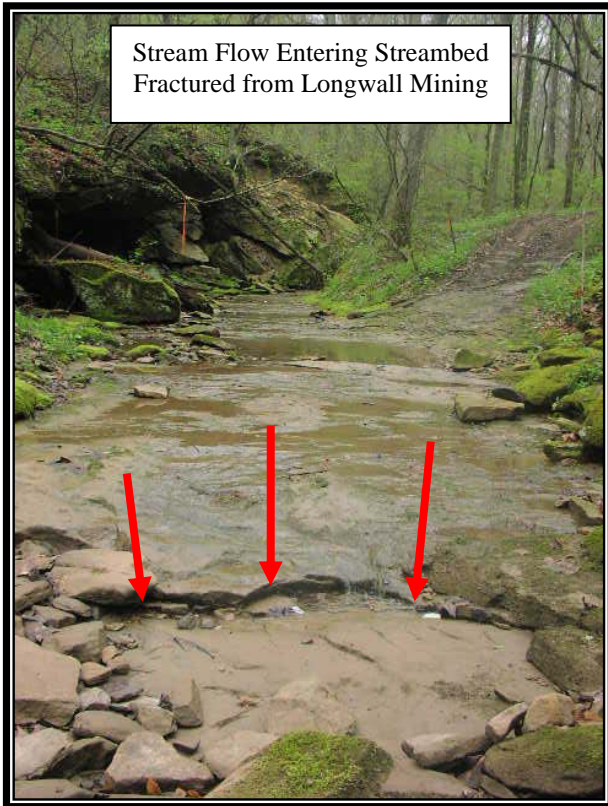
OSM began a study of stream impacts from longwall mining in 2002. The study uses qualitative benthic sampling as a possible means of detecting water loss in perennial and intermittent streams overlying longwall panels. For post-mining determinations, sampling begins upstream of the longwall panels and progresses downstream until the last sampling is done downstream of the last longwall panel. The results of these samplings are compared to see if there are any notable differences in the relative numbers or types of organisms present in areas over longwall panels versus areas upstream or downstream of those panels. A significant decrease in the numbers of organisms or an absence of multi-year organisms over the panels could indicate a potential water loss. For active longwall mines, before and after sampling is the preferred method of study.

During the springs of 2003 and 2004, OSM conducted additional sampling at an active longwall mine in the same vicinity, in new areas over proposed longwall panels, and over recently completed panels.

OSM collected follow-up samples at the active site in the springs of 2004 and 2005. The sample sites included those sampled in 2003, plus several samples taken over recently mined panels. In 2005, some significant observations were made. A small tributary that had been undermined and was dry in 2003 was flowing in 2004. A small tributary that was flowing prior to mining in 2003 was dry after mining in 2004. It had not recovered as of April 2005.

Another tributary had a visibly diminished flow and benthic community immediately downstream of an undermined area in 2004 and was completely dry in 2005.

OSM completed a report on the sampling done in 2003 and 2004 along with the observations of additional dry streams in 2005. The report recommended that Ohio provide formal damage notices to the coal company concerning stream loss. It also recommended that Ohio consider



reducing the five-year period allowed by the permit for monitoring before corrective actions are attempted. Ohio reduced this period to two years in the most recently issued adjacent area permit. However, no damage notices concerning the impacted streams were issued until OSM issued a Ten-Day-Notice concerning these impacts in 2006.

OSM revisited the damaged sections of stream in the spring of EY 2007, and found them all to be flowing well in late March. However, they were all dry by early May. OSM has sent a letter to Ohio requesting the mitigation plans for the damaged streams. Ohio has not yet responded. OSM will continue monitoring the tributaries where problems were observed.

### **AML Construction Program**

OSM reviewed Ohio's non-emergency AML construction processes for productivity and timeliness compared to the previous year. OSM did this by maintaining a project database and conducting routine AML oversight inspections. Ohio's overall AML productivity was somewhat lower than last year. This may be due to the large amount of staff turnover that Ohio experienced in EY 2007.

- **National Environmental Policy Act (NEPA) Compliance**

OSM issued 15 "Authorizations to Proceed" during EY 2007 compared to 29 for EY 2006. This level of activity is considerably less than last year's. However, there were some projects that involved reconstruction, in which case no new authorizations are issued if the work is within the footprint of the original project. One such project was reviewed where a bat gate was modified due to suspected human entry. Bat use of this bat gate had been previously documented, but no bats or evidence of bats was observed after the modification. OSM has informed Ohio that new NEPA submittals will be required for any reconstruction that may impact bats or bat habitat.

All other oversight inspections showed that NEPA submittals accurately described the project sites and any mitigation required. Ohio submitted NEPA information in a timely manner.

- **Design Productivity (AMD and Non-Emergency AML)**

Ohio completed 18 project designs during the review period compared to 39 for the previous year. Ohio's in-house design staff completed 15 of the 18 designs, with consultants designing the remaining three projects. Ohio's effort to do more in-house designs and rely less on consultants continues to be successful. However, there were only 15 in-house designs completed this year compared to 36 last year. Of the 15 in-house designs, five (33 percent) were for small unit-price projects that are less complex than larger projects. Last year, nearly half of the in-house designs were for unit-price contracts. Having less unit-price designs, coupled with continued staff turnover in the engineering section, may account for the lower productivity.

OSM will continue to monitor Ohio's progress in this area, and will assist Ohio in their efforts to improve their design productivity, if possible. Any savings resulting from "in-house" designs will allow more money to be directed to construction projects.

- **Construction Contracting**

Ohio authorized 13 contracts totaling \$2.8 million for construction during the review period, compared to 26 contracts totaling \$4.3 million last year. There were also several unit-price work orders issued during this period, which were not included in the 13 calculated.

The average time between the bid openings and the authorization of construction contracts went from 57.4 days in 2003, 47.8 days in 2004, to 47.4 days in 2005 (not including the Shuler project which had a non-responsive low bidder). This year's average is 90 days. This is a significant increase in time. This may be the result of staff turnover, and financial tracking problems in the AML program. OSM will continue to monitor this activity and work with Ohio to improve contracting times in the upcoming year.



Ohio has also continued its use of unit-price contracts to include water well replacements, portal closures, and maintenance work in addition to backfilling subsidence. This has eliminated the need to design and administer each project separately to bid construction. Under unit-price contracts, multiple projects are constructed under one contract. This has helped improve the productivity and efficiency of Ohio's AML program.

- AML Project Construction Completions

Ohio completed 24 projects during the review period, compared to 24 last year. These projects involved over \$7.1 million of construction funding from various sources, but were administered by DMRM.

#### Abandoned Mined Land Inventory System (AMLIS)

OSM conducted its required annual review by tracking the AMLIS updates for 14 recently completed projects. A few discrepancies were noted between the information in AMLIS and the actual construction contracts. OSM is working with Ohio to resolve these minor discrepancies. Ohio is also proposing to add staff to review the existing inventory and enter new updates to AMLIS as they are documented. This is in response to the reauthorization of the AML fee collection, and the anticipated increases in funding that will result. The reviews of the existing AMLIS problems should correct any inaccuracies in these entries, some of which are 25 years old. The review found that, overall Ohio is continuing to submit timely and accurate updates to AMLIS.

#### In-Stream Ponds

OSM began a study on in-stream sediment ponds by conducting a literature search on the subject, and conducting benthic samples and temperature readings upstream and downstream of in-stream ponds in the spring of 2005. No additional samples were taken in Ohio. Instead, OSM reviewed results from two studies from Tennessee that evaluated small in-stream impoundments. OSM finalized its report in EY 2007. The findings noted that while nearly all of the literature reviewed showed adverse impacts to benthos in streams below impoundments, the value of the impoundments themselves should be considered against the quality of the stream being impacted. For example, it would seem counterproductive to remove a pond with good fish and wildlife values, because of an adverse impact to a benthic community that was marginal to begin with.

In-stream ponds are discouraged by the Ohio Environmental Protection Agency and are required to be removed in most cases. However, the ponds are often valuable resources for fish and wildlife. The goal of the study was to determine what, if any, environmental impacts are occurring as a result of the ponds. It should aid Ohio in making more informed decisions regarding in-stream ponds

### Reclamation Status of Marietta Coal Company Permits

In EY 2007, OSM completed a review of the general condition of the mine sites permitted by Marietta Coal Company (Marietta). The report summarized progress that Marietta has made toward reclaiming their mine sites following Ohio's issuance of BFOs in January 2005 on 15 of 27 of Marietta's permits. Marietta and their bonding companies have appealed the BFOs to the Ohio Reclamation Commission. Marietta and their bonding companies have worked with Ohio on draft agreements that establish reclamation plans and schedules that, if terms are met, would preclude collection of bond on these sites and allow for possible termination of BFOs as sites are reclaimed.

As of November 2006, of the 13 remaining sites that have a BFO, substantial initial reclamation work (backfilling, grading, and/or soil replacement) remained to be completed on six of them. There are three sites without a BFO that have substantial work remaining. Repair and stabilization work (slide and erosion stabilization, drainage control removal, and other maintenance), some of which is substantial, is needed on most of the other sites.

Over the past two years since Ohio issued the BFOs, Marietta has accomplished significant reclamation on some of their mine sites. Marietta has abated several violations/cessation orders. During this time, Marietta has also generally been prevented from mining new areas and incurring additional liability due to the BFOs. Although work has progressed at a slower pace than expected, Marietta has made progress at reducing their overall reclamation liability. This progress also reduces liability on Ohio's reclamation forfeiture fund. As Ohio, Marietta, and surety companies continue to work on terms of agreements to prevent actual bond forfeiture, reclamation is continuing.

OSM will continue to monitor progress of reclamation on the remaining Marietta sites and progress on final terms of the agreement under negotiation. This monitoring will be through communication with Ohio's South District Manager and through OSM inspections.

### Hydrologic Monitoring Study

OSM has not yet completed its report on its oversight study of the ground water monitoring plans approved by Ohio for their surface mining permits. The study's purpose was to evaluate whether the approved plans were adequate to characterize the effect of surface mining on the ground water system. A hydrologist from OSM's Appalachian Region provided technical assistance with the study.

OSM provided a draft report to Ohio in late May 2005. Ohio and OSM have discussed the report sporadically over the past two years. Ohio's permitting hydrologists reviewed the report and provided additional comments in early EY 2007. OSM will compare Ohio's comments to the permits reviewed for the study and develop a final report in EY 2008.

### Off-site Impacts from Bond Forfeiture Sites

The purpose of this review was to determine if bond forfeiture sites were deteriorating to the point of causing off-site impacts. OSM reviewed 15 sites on which Ohio had collected bond and

sites on which Ohio had issued BFOs that were under appeal. The sites were scattered throughout the Ohio coal region, and were mined by several different companies. Only two of the sites inspected had associated off-site impacts, and these ranged from minor to moderate. It appears that off-site impacts from forfeiture sites are not a problem in Ohio.

### AML Emergency Program

This study is considering data from Ohio's AML Emergency Program extending from 1993 through 2006. The study will identify any projects that took Ohio longer than six months to abate from the time of the emergency declaration. The data will be analyzed for trends and conclusions. OSM began this study by reviewing its emergency database for completeness and accuracy. However, it was not completed as of the end of the review period. OSM will complete this study in EY 2008.

### OSM Part 732 Notices and Program Amendments

#### Program Condition and Initiation of 733 Action (Program Amendment 81)

Ohio has one program condition remaining at 30 CFR 935.11 from OSM's 1982 approval of the Ohio permanent regulatory program. Ohio must demonstrate that its ABS will ensure timely reclamation at the sites of all operations for which bond has been forfeited. OSM also issued a Part 732 letter to Ohio on this issue on October 1, 1991. The letter notified Ohio that it must revise the Ohio program to ensure that the ABS will have sufficient funds to complete the reclamation plans for any areas in default at any time. An actuarial analysis of Ohio's ABS as of December 31, 1992, found that Ohio's ABS is solvent if certain assumptions are fulfilled. In February 1994, Ohio reported that its ABS continues to have a \$1.5 million deficit. On June 30, 1995, Ohio and OSM updated an Improvement and Monitoring Plan for the Ohio ABS. OSM's review of this program area in EY 2002 again identified that Ohio's inability to complete timely reclamation of bond forfeiture sites remains a significant issue. There has been little improvement in timeliness of reclamation in the last 20 years.

On May 4, 2005, the OSM Director formally notified Ohio that he was taking action pursuant to 30 CFR Part 733 and would recommend that the Secretary of Interior withdraw approval of Ohio's bonding program unless Ohio submitted a program amendment to address the deficiencies with the bonding program. Ohio submitted Program Amendment #81 to OSM on December 19, 2005. The amendment consisted of draft legislation intended to address the program condition and revise the way the regulatory program is funded, among other things. On May 5, 2006, OSM sent a letter to Ohio outlining several issues that Ohio must address before OSM could make a decision on the amendment.

Subsequent to Ohio's submitting the amendment to OSM, the OCA worked on Substitute HB 488 which was introduced in the Ohio House of Representatives. Substitute HB 488 was a revised version of the draft legislation that Ohio submitted as Program Amendment #81. In December, 2006, the Ohio Legislature combined HB 488 with HB 443, an ODNR omnibus bill. HB 443 was passed by the Legislature and signed into law on January 4, 2007. The provisions became effective on April 4, 2007. Following passage of this legislation, Ohio decided not to respond to OSM's issue letter of May 5, 2006, withdrew Program Amendment #81, and submitted Program Amendment #82, which includes enacted HB 443.

OSM completed its initial review of the amendment and sent a letter to Ohio in July 2007, identifying issues to which Ohio must respond before OSM makes a decision on the new amendment.

#### Program Amendment 69

OSM approved Ohio's proposed changes contained in Program Amendment 69 on July 17, 1995. The changes were in response to an OSM review of conflict of interest provisions that suggested that Ohio clarify their rules. Due to an oversight, Ohio did not promulgate the rules that OSM approved. The purpose of the amendment partly concerned the filing of financial interest statements by the Reclamation Commission members, among other things. The Commission members are filing these statements annually. In August 2006, Ohio asked to withdraw the program amendment. OSM approved Ohio's withdrawal of the amendment in EY 2007.

#### Program Amendment 75 Attorney Fees

In 1998, OSM approved proposed revisions to the Ohio Revised Code concerning award of attorney fees. This issue has been a long-standing legal issue with the Ohio Program. OSM expected that Ohio would have a sponsor introduce this revision, along with other statutory changes, to the Ohio Legislature during 2000, 2001, 2002, 2003, 2004, and again in 2005. In 2006, Ohio tried to include the OSM-approved language in a bill regarding changes to the bonding program. OCA proposed to change the approved language to a version that Ohio considered less effective than what OSM approved. Since Ohio and OCA did not agree on revised language, Ohio opted to leave the language as is. Ohio reported that legislation cannot be passed without OCA support. Therefore, status quo remains. OSM has not decided what action, if any, to take to resolve this issue.

#### Program Amendment 80 Remining

Ohio submitted a formal program amendment on remining on November 7, 2003. The amendment is intended to address changes to Federal rules adopted by USEPA regarding water quality standards in remining situations. OSM approved this amendment in August 2004. Ohio has not yet adopted the approved rules.

#### Valid Existing Rights

OSM notified Ohio on August 22, 2000, of recent changes to Federal regulations pertaining to valid existing rights. Ohio is deferring its final response pending the outcome of legal challenges to the Federal rule.



# Appendix A

## Tabular Summary of Core Data to Characterize the Program

<b>TABLE 1</b>			
<b>Coal Produced for Sale, Transfer, or Use</b> (Millions of Short Tons)			
<b>Period</b>	<b>Surface Mines</b>	<b>Underground Mines</b>	<b>Total</b>
<b>Coal production<sup>A</sup> for entire State:</b>			
<b>Evaluation Year</b>			
EY 2005	8.528	14.385	22.913
EY 2006	8.821	15.441	24.262
EY 2007	7.068	15.254	22.322
<p><sup>A</sup> 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. <b>Provide production information for the latest three full evaluation years to include the last full evaluation year for which data is available.</b></p>			

**TABLE 2**

**Inspectable Units  
As of June 30, 2007**

Coal mines and related facilities	Number and Status of Permits								Nbr. of Insp. Units <sup>A</sup>	Permitted Acreage <sup>B</sup> (100's of acres)				
	Active or temporarily inactive		Inactive Phase II bond release		Abandoned		Totals			Federal Lands		State/Private Lands		All Lands
	IP	PP	IP	PP	IP	PP	IP	PP		IP	PP	IP	PP	Total
<b>LANDS FOR WHICH THE STATE IS THE REGULATORY AUTHORITY</b>														
Surface mines	0	187	0	49	0	30	0	266	266	0.0	1.0	0.0	953.1	954.1
Underground mines	0	20	0	3	0	0	0	23	23	0.0	0.1	0.0	56.2	56.3
Other facilities	0	26	0	4	0	2	0	32	32	0.0	0.1	0.0	45.1	45.2
Total	0	233	0	56	0	32	0	321	321	0.0	1.2	0.0	1,054.4	1,055.6

Total number of permits:	321
Average number of permits per inspectable unit (excluding exploration sites):	1.00
Average number of acres per inspectable unit (excluding exploration sites):	328.85
Number of exploration permits on State and private lands:	1
On Federal lands <sup>C</sup> :	0
Number of exploration notices on State and private lands:	97
On Federal lands <sup>C</sup> :	0

**IP:** Initial regulatory program sites  
**PP:** Permanent regulatory program sites

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

<sup>B</sup> 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.

<sup>C</sup> Includes only exploration activities regulated by the State pursuant to a cooperative agreement with OSM or by OSM pursuant to a Federal lands program. Excludes exploration regulated by the Bureau of Land Management.

**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	Acres <sup>A</sup>	App. Rec.	Issued	Acres	App. Rec.	Issued	Acres
New Permits	11	21	6,370	1	1	55	0	0	0	12	22	6,425
Renewals	15	2		1	0		3	1		19	3	
Transfers, sales, and assignments of permit rights	2	0		0	0		0	0		2	0	
Small operator assistance	2	3		0	0		0	0		2	3	
Exploration permits										1	1	
Exploration notices <sup>B</sup>											97	
Revisions (exclusive of incidental boundary revisions)		98			3			1			102	
Revisions (adding acreage but are not incidental boundary revisions)	3	3	598	3	7	79	0	0	0	6	10	677
Incidental boundary revisions	25	10	193	5	4	30	0	0	0	30	14	223
<b>Totals</b>	<b>58</b>	<b>137</b>	<b>7,161</b>	<b>10</b>	<b>15</b>	<b>164</b>	<b>3</b>	<b>2</b>	<b>0</b>	<b>72</b>	<b>252</b>	<b>7,325</b>

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

<sup>A</sup> Includes only the number of acres of proposed surface disturbance.

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

**TABLE 4****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
<b>TYPE OF IMPACT AND TOTAL NUMBER OF EACH TYPE</b>	Blasting	3	3	0	0	0	0	0	0	0	0	0	0
	Land Stability	2	0	0	0	2	0	0	0	0	0	0	0
	Hydrology	44	0	0	0	6	2	0	36	6	0	0	0
	Encroachment	18	2	0	0	11	2	0	7	2	0	0	0
	Other	1	0	0	0	1	0	0	0	0	0	0	0
	Total	68	5	0	0	20	4	0	43	8	0	0	0

Total number of inspectable units (excluding bond forfeiture sites): 289

Inspectable units free of off-site impacts: 254

Inspectable units with off-site impacts: 35

**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
<b>TYPE OF IMPACT AND TOTAL NUMBER OF EACH TYPE</b>	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	6	0	0	0	4	1	0	5	1	0	0	1
	Other	0	0	0	0	0	0	0	0	0	0	0	0
	Total	6	0	0	0	4	1	0	5	1	0	0	1

Total number of inspectable units (only bond forfeiture sites): 32

Inspectable units free of off-site impacts: 29

Inspectable units with off-site impacts: 3

**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	2,662		
Phase II	- Surface stability - Establishment of vegetation	3,073	157	
Phase III	- Post-mining land use/productivity restored - Successful permanent vegetation - Groundwater recharge, quality and quantity restored - Surface water quality and quantity restored	3,462	84	553
<b>Bonded Acreage<sup>A</sup></b>			<b>Acres during this evaluation year</b>	
Total number of new acres bonded during this evaluation year			4,678	
Number of acres bonded during this evaluation year that are considered re-mining, if available			0	
Number of acres where bond was forfeited during this evaluation year			5	
<b>Bonded Acreage Status</b>		<b>Cumulative Acres</b>		
Total number of acres bonded as of the end of last review period (June 30, 2006) <sup>B</sup>		50,541		
Total number of acres bonded as of the end of this review period (June 30, 2007) <sup>B</sup>		51,752		
Sum of acres bonded that are between Phase I bond release and Phase II bond release as of June 30, 2007 <sup>B</sup>		16,970		
Sum of acres bonded that are between Phase II bond release and Phase III bond release as of June 30, 2007 <sup>B</sup>		11,659		
<b>Disturbed Acreage</b>		<b>Acres</b>		
Number of Acres Disturbed during this evaluation year		1,732		
Number of Acres Disturbed at the end of the evaluation year (cumulative)		0		
<p><sup>A</sup> Bonded acreage is considered to approximate and represent the number of acres disturbed by surface coal mining and reclamation operations.</p> <p><sup>B</sup> Bonded acres in this category are those that have not received a Phase III or other final bond release (State maintains jurisdiction).</p>				

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) <sup>A</sup>	23		1,273
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)	5		115
Sites with bonds forfeited and collected that were unreclaimed as of June 30, 2007 (end of current evaluation year) <sup>A</sup>	19		1,164
Sites with bonds forfeited but uncollected as of June 30, 2007 (end of current evaluation year)	15		1,828
<b>Surety/Other Reclamation (In Lieu of Forfeiture)</b>			
Sites being reclaimed by surety/other party as of June 30, 2006 (end of previous evaluation year) <sup>B</sup>	1		192
Sites where surety/other party agreed to do reclamation during Evaluation Year 2007 (current evaluation year)	2		243
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) <sup>C</sup>	1		49
Sites being reclaimed by surety/other party as of June 30, 2007 (current evaluation year) <sup>B</sup>	2		386

<sup>A</sup> Includes data only for those forfeiture sites not fully reclaimed as of this date

<sup>B</sup> Includes all sites where surety or other party has agreed to complete reclamation and site is not fully reclaimed as of this date

<sup>C</sup> This number also is reported in Table 5 as Phase III bond release has been granted on these sites

<b>TABLE 7</b>	
<b>State Staffing</b> (Full-time equivalents at end of evaluation year)	
Function	EY 2007
Regulatory Program	
Permit Review	6.87
Inspection	16.77
Other (administrative, fiscal, personnel, etc.)	8.64
Regulatory Program Total	32.28
AML Program Total	33.67
<b>Total</b>	<b>65.95</b>



**TABLE 8**

**Funds Granted To Ohio  
BY OSM**  
(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	\$ 1,967,353	50.00 %
Other Regulatory Funding, if applicable	\$ 0	0.00 %
<b>Subtotal</b>	<b>\$ 1,967,353</b>	
Small Operator Assistance Program	\$ 0	100 %
Abandoned Mine Land Reclamation Funding <sup>A</sup>	\$ 7,497,389	100 %
<b>Totals</b>	<b>\$ 9,464,742</b>	

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

<b>TABLE 9</b>		
<b>State Inspection Activity During Current Evaluation Year</b>		
<b>Inspectable Unit Status</b>	<b>Number of Inspections Conducted</b>	
	<b>Complete</b>	<b>Partial</b>
Active <sup>A</sup>	894	2,292
Inactive <sup>A</sup>	267	246
Abandoned <sup>A</sup>	29	0
<b>Total</b>	1,190	2,538
<b>Exploration</b>	7	0
<sup>A</sup> Use terms as defined by the approved State program.		

<b>TABLE 10</b>		
<b>State Enforcement Activity</b>		
<b>During Current Evaluation Year</b>		
<b>Type of Enforcement Action</b>	<b>Number of Actions<sup>A</sup></b>	<b>Number of Violations<sup>A</sup></b>
Notice of Violation	112	112
Failure-to-Abate Cessation Order	0	0
Imminent Harm Cessation Order	6	6
<sup>A</sup> Do not include those violations that were vacated.		

<b>TABLE 11</b>		
<b>Lands Unsuitable Activity</b>		
<b>During Current Evaluation Year</b>		
	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

### Ohio's Comments on Draft Report and OSM's Response

**From:** VanOfferen, Terry [Terry.VanOfferen@dnr.state.oh.us]

**Sent:** Friday, August 31, 2007 2:43 PM

**To:** Dan Schrum

**Subject:** Draft 2007 Annual Evaluation Summary Report

Dan,

Below are comments for the AML portion of the above-referenced report:

- Pg. 14 - Under Raccoon Creek discussion, the watershed group should be referenced as The Raccoon Creek Partners, rather than the Improvement Committee.
- Pg.14 - The last sentence in the Flint Run East discussion should indicate that the project is the single biggest producer of AMD in the Raccoon Creek basin, rather than the Little Raccoon Creek basin.
- Pg. 15 - Under the Pierce Run discussion, the project has been delayed because of a delay in acquisition of the 319 grant, rather than a right of entry concern.
- Pg. 15 - In the Thomas AMD Project discussion of Huff Run, we are awaiting acquisition of the 319 grant.
- Pg. 16 - In the Leading Creek discussion, reference is made to Ohio assisting the Leading Creek Improvement Committee Advisory Council in the completion of the AMDAT. In actuality, the AMDAT is complete.

Thanks for providing an opportunity to review and respond.

Terry Van Offeren, Manager  
Abandoned Mine Land Program  
Division of Mineral Resources Management  
2045 Morse Road, Building H-2  
Columbus, Ohio 43229  
(614) 265-1094

OSM made the changes to the AML sections of the final report as Ohio suggested in their comments.

Ohio responded that they had no comments on the regulatory portions of the draft report.