

PERFORMANCE AGREEMENT

Between

The Office of Surface Mining
Indianapolis Field Office

And

The Indiana Department of Natural Resources
Division of Reclamation

October 1, 2001 – September 30, 2002

**Performance Agreement
Between
The Office of Surface Mining
and
The Indiana Department of Natural Resources
Division of Reclamation
EY 2002**

Part I. Purpose

Background: The purpose of this Performance Agreement is to establish a mutually acceptable scope of work for oversight of specific elements of the approved surface coal mining and reclamation and abandoned mine lands programs administered by Indiana. Further, this agreement provides the mechanism for programmatic and technical support and assistance to the State. The focus of the agreements with the states is to assure that SMCRA requirements are addressed in the development and administration of state laws, regulations and programs. The ongoing oversight process allows timely identification and resolution of program issues, serves to keep the State programs aligned with SMCRA requirements, and serves to identify areas where the Office of Surface Mining (OSM) needs to clarify its implementation expectations.

Objective: The objectives of this Performance Agreement are:

- To foster mutual respect in carrying out the requirements of SMCRA,
- Assure that oversight topics reflect OSM/State priorities,
- Use on the ground results in protecting the environment and public health and safety,
- Provide timely follow through on areas identified as needing program enhancements,
- Encourage State self evaluation of program performance, and
- Provide for State review of oversight or sub-element reports.

Part II. Annual Evaluation Plans

Background: OSM's Directive REG-8 provides a flexible framework for developing and carrying out annual state program evaluations. It provides the flexibility to design an annual oversight plan, which includes oversight topics that reflect the highest priority review areas, assistance needs which are developed with significant input from other interests, including citizens, environmental representatives, interest groups and the coal industry. The directive encourages the States to be involved in developing and carrying out the plan and reporting

on the results. The annual agreement may be modified as issues are resolved, new issues arise, or as work priorities change. Work plans for each review to be conducted will be drafted and agreed to prior to a review beginning.

Part III. National Review Topics

Reg-8 requires the gathering of specific data during the evaluation year. This data, with the exception of reclamation success, will be gathered during complete inspections. The Indianapolis Field Office (IFO) anticipates conducting reviews of fifty inspectable units during EY2002. The primary focus of these inspections is to obtain an overall picture of the impacts of surface coal mining and reclamation operations, both within the permit boundaries as well as off-site. The focus of these inspections is early identification of trends and prevention of problems. With early identification and prevention, successful and timely reclamation should follow.

The OSM Directive REG-8 also allows for evaluation of additional topics which will assist both the State and OSM in improving the existing programs. These topics are covered later in the agreement.

National review topics

A. Off-site Impacts.

The IFO will continue to evaluate and report on the effectiveness of the Division of Reclamation (DOR) in protecting the environment and the public from off-site impacts resulting from surface coal mining operations. The State and OSM have agreed to use the definition of off-site impact in OSM Directive Reg-8. This definition allows gathering data for events not controlled or regulated by the State. This data will be gathered but will not be reported as part of Table 4. The data may, however, be discussed in the oversight report narrative.

Additional information describing the evaluation objective, methodology and output measures is included in the attached work plan.

B. Reclamation Success.

The IFO will continue to evaluate and report on the effectiveness of the DOR in ensuring successful reclamation on lands affected by surface mining. The number of acres meeting phased bond release standards, and released by the state, will

determine success in each category listed below:

- a. Land form/AOC,
- b. Land capability,
- c. Hydrologic reclamation, and
- d. Contemporaneous Reclamation.

The number of acres released from phase I bond will measure AOC and replacement of required soil.

The number of acres released from phase II bond will measure soil and vegetative stability with respect to erosion and the establishment of vegetative cover consistent with the approved post mining land use.

The number of acres that have been released from phase III bond release will measure the attainment and establishment of a successful and appropriate vegetative cover, including restoration of productivity. The successful restoration of surface and ground water quality and quantity will be measured by the accounting of acres receiving phase III bond release.

The OSM Directive REG-8 defines Contemporaneous Reclamation as the difference in time between lands being disturbed and final phased bond release. Indiana now gathers information concerning affected acres. Because of this change in the State Program, contemporaneous reclamation will now be measured using affected acres rather than bonded acres. Indiana also collects and maintains data concerning the number of acres released from bond each year. The data that Indiana provides in Table 5 will be used to make a general assessment of contemporaneous reclamation.

C. Customer Service.

The IFO will review Indiana's Educational Outreach program as it relates to public information and awareness. Specifically, the IFO will attend and monitor the Teacher's Workshop on November 2 and 3, 2001.

The IFO will also review Indiana's emphasis on collection of groundwater data, beyond that required by the application. In cases where landowners outside the required monitoring areas are concerned about water supplies being impacted by mining, a determination is made about providing the monitoring if the information will benefit the landowner and the Division. The IFO will evaluate the states criteria for conducting this evaluation and for providing this value added service for the public.

Part IV. Selected Programmatic Review Topics for EY 2001

A. Groundwater Monitoring.

The emphasis in this area will be toward completion of the Data entry into the data base and training staff to use the product when it is completed. The state indicated that a large backlog of data still exists that needs to be entered because of the lack of personnel, funding, and hiring freezes. The OSM agreed to try to assist with the data entry.

B. Clean Streams Initiative.

The IFO will continue to support and participate with the citizens groups and government agencies to accomplish the return of the South Fork of the Patoka River to a useful stream.

C. Wetland Mitigation Compliance

A joint OSM/DOR team will be established to review permits containing Corps of Engineers 404 wetlands requirements. The team consists of Larry Green representing OSM and Tom Good and Ramona Briggeman representing the DOR. The team will meet and develop a work plan to allow the team to determine if Corps 404 and DNR requirements are being met. The team will meet and develop an acceptable work plan by December 31, 2001 and complete the review and prepare a final report by July 30, 2002,

D. Temporary Cessation of Operations

A joint OSM/DOR team will be formed to examine Temporary Cessation of Operations (TCO) including grading deferrals to assure that the cessations are made for reasonable and allowable reasons. The team will prepare a work plan by December 31, 2001 and will have the review completed and a report prepared by July 30, 2002. The team's focus will be to gather data on both TCO's and grading deferrals and evaluate if the issuance was reasonable under the circumstances. The team members for this team are Larry Greene and Andrew Gilmore representing OSM and Tim Taylor and Kevin Geier representing the IDNR.

Part V. Abandoned Mine Lands

The IFO will work with the DoR to develop a Blanket Emergency Approval Agreement. This Agreement should identify instances where the DoR would not have to contact the OSM for approval for expenditures for Emergency projects which meet specified criteria.

The Customer Survey will continue through EY 2002.

The IFO will work with the DOR to enhance and update the State AML Plan. Russ Miller, representing OSM, and Steve Herbert, representing DOR will write up the work plan. The plan will be developed by December 31 and the elements of the reviews completed and final reports submitted by August 31, 2002.

Part VI. Other

The DoR will provide all information required by OSM Directive REG-8 by October 15, 2002. (Table 1-9 with the exception of Tables 4, due September 15, 2002 and Table 5, due by September 15). In addition, the DoR shall provide information regarding State inspection, enforcement and Lands Unsuitable activities as required by tables 10-12 by October 15, 2002. (The tables are currently the same as in EY 2001, the IFO will advise the DoR of any known changes if any as soon as possible from the time of receipt).

This Plan may be modified in writing at any time with the written agreement of both parties.

_____ Name	_____ Date	_____ Name	_____ Date
Andrew R. Gilmore, Director Indianapolis Field Office		Bruce A. Stevens, Director Division Of Reclamation	