

MISSOURI EVALUATION YEAR 2002 PERFORMANCE AGREEMENT

I. *PURPOSE OF THIS AGREEMENT*

The purposes of this Performance Agreement (PA) with the Office of Surface Mining (OSM) Mid-Continent Regional Coordinating Center (MCRCC), Grants and Oversight Team (GOT), and the State of Missouri, Department of Natural Resources, Division of Air and Land Protection, Missouri Land Reclamation Program (LRP) are to:

- A. Foster a shared commitment to the implementation of the Surface Mining Control and Reclamation Act of 1977 (SMCRA) through the LRP regulatory and abandoned mined land programs by working together to accomplish shared goals.
- B. Define and specify goals, objectives, and outcome measures used to determine the level of success by LRP and OSM in achieving the requirements of SMCRA Titles IV and Title V during the Evaluation Year (EY).
- C. Provide for a continuous multi-year working agreement. Since the goals and objectives of LRP and OSM are ongoing, this Agreement charts a work plan for continuation of these efforts.
- D. Identify topic areas subject to evaluation in the EY2002 annual evaluation report.

II. *GOALS, OBJECTIVES AND OUTCOME MEASURES USED DURING EY2002.*

A. Title IV – Abandoned Mine Land Reclamation Program

In a cooperative effort, LRP and OSM will aggressively pursue reclamation of Abandoned Mine Lands (AML) by striving to increase the number of acres restored to productive use.

Measure(s):

- 1. The LRP AML reclamation project sites will be selected from a prioritized list of AML sites (see Attachment 1). A sample of sites reclaimed during EY2002 will be evaluated by comparing the reclamation against the approved contract requirements. OSM will conduct joint field inspections on two AML projects.
- 2. Missouri will enter applicable reclamation accomplishments on the Abandoned Mine Land Inventory System (AMLIS) and other data management systems as

needed to supply informational needs of the AML program. Missouri will provide accomplishments data to OSM for the annual report by October 1, 2002.

3. Emergency complaints should be timely and effectively addressed, and in compliance with applicable AML emergency guidelines. The LRP and OSM will monitor all complaints investigated as emergencies for timeliness and effectiveness of the emergency program. If significant activities occur, OSM/LRP management will determine if a study is appropriate.
4. The LRP AML program received a grant of \$163,484.00 in FY2000 and additional funding of \$172,231.00 in FY 2001 to conduct acid mine drainage mitigation on the Gans Creek, Upper Cedar Creek, and Old Bevier project areas. The MLRC will maintain its partnership relations with the various cooperative agencies involved in reclamation under the Clean Streams program. OSM and Missouri will conduct periodic inspections for progress and adherence to all protocols established under the Clean Streams program.

B. Title V – Coal Regulatory Program

In a cooperative effort, LRP and OSM will prevent environmental problems by: 1) protecting the environment and public from off-site impacts of surface coal mining operations and, 2) ensuring successful and timely reclamation of lands affected by surface coal mining operations.

Measure(s):

The LRP will minimize the number and severity of off-site impacts and maximize reclamation success while protecting the environment and public from mining activities.

OSM will conduct up to 40 joint inspections, excluding bond releases, with LRP. Joint inspections will be conducted to the maximum extent possible. The sites to be inspected will be selected from a population of mine sites that have not received total Phase III bond release or total liability release from the Missouri Land Reclamation Commission (MLRC). OSM will monitor the State's enforcement activities through the inspection process.

C. Assistance.

OSM will provide training, assistance, and advice to the LRP staff in strengthen the capabilities to effectively enforce SMCRA.

Measure(s):

The OSM will maintain customer satisfaction to the LRP by providing services in the following areas:

Technical training
Technical Information Processing System (TIPS) assistance
Information and technology transfer including GIS, subsidence, and AMD reclamation.

OSM will provide a list of training opportunities being developed. LRP will provide OSM with a list of TIPS needs. OSM will provide technical assistance and access to training resources to all LRP staff, and will follow-up with surveys to determine program effectiveness.

D. Joint Meetings

To assist in maintaining a continued flow of information, OSM and LRP will hold meetings on a minimum of a quarterly basis to review elements of the PA and other ongoing activities. Management will establish the time, place, and agenda for the meetings. Minutes of each meeting may be developed and distributed.

III. TOPICAL AREAS TO BE ADDRESSED IN THE EY2002 ANNUAL REPORT

A. Title IV Topics - The overall measure of excellence in the AML (Title IV) program is the degree to which Missouri is successful in achieving planned reclamation goals. One of the primary goals of AML topical reviews, referred to as Enhancement and Performance Reviews, is to improve upon this success. These reviews document LRP's ability to achieve desired outcomes.

1. *Programs should be responsive to public concerns.*

Missouri has established a public inquiry tracking system and database. The database will be used to review requests for assistance, outreach, public meetings, and other information regarding the AML program. The LRP staff will provide the number of public inquires to OSM by September 28, 2002.

2. *Missouri must have an approved reclamation plan that meets the requirements of Federal laws and regulations and the State must conduct reclamation in accordance with its approved plan.*

During EY2002, Missouri will maintain its approved Abandoned Mine Land Reclamation Plan. OSM will provide technical assistance to Missouri on request.

3. *On-the-Ground Reclamation is to be achieved in a timely, cost-effective manner.*

A team of OSM and State personnel will coordinate site visits on a minimum of two active projects. Site visits will also be coordinated on two projects completed one year prior to the evaluation year, and two projects completed three years prior to the evaluation year to evaluate long-term reclamation success. The team will establish the criteria for review. A draft report will be completed by August 28, 2002, and a final report will be completed by September 28, 2002.

- B. ***Title V Topics*** - To further the concept of reporting end results under REG-8, the findings from performance standard and public participation evaluations are being collected for a national perspective in terms of the number and extent of observed off-site impacts, the number and percentage of inspectable units free of off-site impacts, the number of acres that have been mined and reclaimed, the number of acres released through various phases of bond release, and the effectiveness of customer service provided by the State.

1. *Tables*

LRP will provide data to complete annual report tables 2, 3, 5, 6, 7, and 8. The data will be submitted to OSM by September 14, 2002. Tables 1, 4, and 9 will be completed by OSM.

2. *Bond Forfeiture (Procedures and Effectiveness)*

OSM and LRP will continue to jointly evaluate and report on Missouri's effectiveness in achieving reclamation success on bond forfeiture sites based on a file review of LRP's adherence to applicable regulatory requirements, policies, and procedures.

Data for review may include information from the State/Federal files and databases, forfeiture site reclamation schedules, inspection reports, MLRC meeting minutes, bond pool documents, and any other useful information sources. The review sample will include all sites abandoned from October 1, 1989, to July 1, 2002, where bond forfeiture is officially in process or completed and liability has not been released. OSM will complete a report of its findings by July 31, 2002. The reviewers will develop interim steps and criteria.

3. *Inspection Frequency*

On May 9, 2001, OSM approved Missouri's Proposed Amendment, SPATS No. MO-033-FOR which included a revision of 10CSR 40-8.030(1)(G) ,.... inspection

frequency on abandoned sites. OSM and LRP will jointly monitor the implementation of this process for reduction of inspection frequency on abandoned sites and in achieving the inspection frequency on other sites as required by 10 CSR 40-8.030. The reviewers will develop interim steps and criteria. OSM will complete a report of its findings by August 15, 2002.

4. *Off-site Impacts*

OSM will assess the effectiveness of the State program in protecting the environment and the public from off-site impacts resulting from surface coal mining and reclamation activities. Data will be captured and incorporated into Table 4. This data must be fully explained by a supporting narrative. In order to accurately review and use all state data, inspection reports will state whether or not an off-site impact was observed. State data needed to complete Table 4 should be submitted by September 1, 2002. OSM will complete a report of its findings by September 14, 2002.

5. *Customer Service (Outreach)*

OSM and the MLRC will jointly conduct a study to determine if the public and appropriate local, state, and Federal agencies are being provided the opportunity for input into the permitting process as required by Missouri's regulations. A team will be formed and meet in the second quarter of the evaluation year to design the study. OSM will complete a findings report by July 31, 2002.

6. *Reclamation Success*

OSM will evaluate and report on the effectiveness of State programs in ensuring successful reclamation. Success will be based on the number of acres successfully released from reclamation bond liability. Specific information on evaluating compliance with performance standards will be collected, evaluated, and reported.

Information may be collected to measure program performance in the following areas:

- a. Land form/approximate original contour
- b. Land capability
- c. Hydrologic reclamation
- d. Contemporaneous reclamation

A joint LRP and OSM team will agree on data collection and reporting. The number of acres released from bond will represent accomplishment of specific on-the-ground reclamation. Any alternative methodologies to those that are established in Reg-8 will be developed by LRP. All reports will be completed by

October 1, 2002. All necessary data for the report(s) will be conveyed to the appropriate parties by September 14, 2002. OSM will conduct up to seven joint bond release inspections with the LRP. The inspections will be conducted on areas requested for Phase I, II, or III release.

7. *Bond Forfeiture (On-the-Ground Reclamation)*

Routine file reviews and field evaluations of recent bond forfeiture reclamation projects identified numerous deficiencies in reclamation of these sites. OSM's concerns were discussed with the State and on-the-ground reclamation of forfeiture reclamation projects was identified as a review topic this year. Selected forfeiture sites will be visited before, during and/or after completion of reclamation, but prior to LRP requesting release of total liability before the MLRC. The LRP will conduct reclamation at abandoned (forfeiture sites) from those listed in Attachment 1. LRP will give OSM notification 90 days in advance of its intent to pursue liability release, so that adequate planning, field review, and discussion of findings with the State can occur prior to presentation to the MLRC. The reviewers will develop interim steps and criteria. OSM will complete a report of its findings by September 14, 2002.

8. *Program Amendments*

OSM will review Missouri's submittal of program amendments in response to 30 CFR 732 and CFR part 884 letters, if needed. LRP will submit proposed program amendments needed to maintain its program in a timely fashion. Missouri has detailed internal procedures to complete its rulemaking. This 14-month plus process includes various legal time frames and administrative requirements in processing an amendment to the State program. MLRP will develop and submit to OSM the following program amendments for informal review during the second quarter of EY 2002, with the final program amendment ready for OSM review by January 15, 2003. This includes the following:

- a. Subsidence and Water Replacement (need for a definition of "replacement of water supply") - - 30 CFR Part 732 Letter 5/20/96.
- b. Air Quality – 30 CFR Letter 5/9/01.
OSM required Missouri to address air quality in a manner no less effective than the Federal regulations at 30 CFR 817.95(a).
- c. Valid Existing Rights (VER) - - 30 CFR Letter 8/23/00.
- d. Regulatory reform 1 - - 30 CFR Part 732 Letter 6/11/86

One item remains unresolved. Missouri needs to remove or revise the disapproved language concerning county averages in its Phase II and III Prime Farmland revegetation guidelines at Section II.C.5. Missouri submitted revisions on April 15, 1997, but withdrew them on May 29, 1997.

- e. On May 9, 2001, OSM published the Final Rule pertaining to Missouri's "Super amendment III" and except for several provisions, approved the proposed amendment. As a result, required amendments 30 CFR 925.16 (p)(4), 30CFR 925.16 (p) 20, and CFR 925.16 (v) remain outstanding.

9. *Inspections and Enforcement Data Collection and Reporting*

The OSM/State Inspection and Enforcement Data Team Report, the Management Council and OSM's Director have recommended that the following data collection be initiated and identified in the Performance Agreement:

a. *Bond Pool Data*

Status of pool funds, participants, and pool liabilities.

b. *Enforcement Data*

The number and type of State Notices Of Violation, Cessation Orders, and Notices of Delinquent Reclamation (by type), and the number of violations associated with each action.

c. *Inspection Data Where the State is the Regulatory Authority*

The number of State inspections by type (complete, partial, etc.).

d. *Lands Unsuitable Petitions*

The number received, rejected, pending, or approved.

All data for the four quarters of EY2002 will be submitted to OSM by October 15, 2002.

Larry Coen, Staff Director
Land Reclamation Program
Division of Air and Land Protection
Department of Natural Resources

Date

John W. Coleman
Grants and Oversight Team Leader
Mid-Continent Regional Coordinating Center
Office of Surface Mining Reclamation and Enforcement

Date

ATTACHMENT 1

Missouri's Land Reclamation Program
Abandoned Mine Lands Section
Project Plans for 2002

Project	P.A. Number	County	Acres	Inventory Keywords
Harrisburg	MO0030	Boone	40	DPE
Noah	MO0120	Henry	80	DH
Upper Cedar Creek 319/Clean Streams	MO0151,MO0152	Callaway/Boone	N/A	N/A
Lemons	MO0219	Putnam	10	VO,HEF,DPE
Callaway	N/A	Callaway	30	DH
Moberly Shaft	N/A	Randolph	1 Portal	P
Greasy Mine Shaft*	MO0223	St. Francois	1 Shaft	VO
Tri-State Pb/Zn Shafts*	MO0224, MO0225 MO0226, MO0227	Jasper/Newton	19 Shafts	VO

NOTE: Missouri has taken over primacy for emergency investigations and emergency abatement projects. The Abandoned Mine Land Unit expects to conduct 0-5 emergency investigations annually. The reported emergency situations may range from possible coal mine subsidence events in metro St. Louis to sudden occurrences of shaft openings in the coalfields of rural Missouri. If these investigations result in emergency declarations, the problems will be addressed promptly.

* During EY 2001, Missouri obtained the Governor's request for reclamation of these non-coal projects.

**ATTACHMENT 1
MISSOURI LAND
RECLAMATION
PROGRAM
ABANDONED MINE
LANDS
COMPLETED
PROJECTS FY 95-01**

Project Title	County	Acreage	Construction Cost	State FY Completed
Westran	Randolph	Grouting	\$399,179	
Tightwad/Pierce	Henry	20	\$281,499	
Stover	Morgan	15	\$167,500	
Livingston	Henry	17	\$243,831	
Honey Creek	Henry	32	\$655,000	
Gray	Henry	10	\$96,440	
Tebo Creek	Henry/Johnson	440	\$4,521,420	
FY95 Totals	7 Projects	534		
		acres		
S.W. Fulton	Callaway	4 shafts	\$9,105	
Stump	Dade	37	\$287,842	
Mindenmines	Barton	12 shafts	\$7,482	
Liberal	Barton	2 Shafts	\$2,731	
Higginsville	Lafayette	7 Shafts	\$1,784	
Cainsville	Harrison	1 shaft	\$62,991	
FY96 Totals	6 Projects	37		
		acres		
Silver Fork Portals	Boone	3 Shafts	\$2,750	
Rich Hill	Bates	10 shafts	\$172,276	
Reese	St. Louis	Grouting	\$21,338	
Lexington	Lafayette	2 Shafts	\$500	
Frost/Calfee	Randolph	7 shafts	\$19,795	
Bison	Barton	107	\$821,195	
FY97 Totals	6 Projects	107		
		acres		
Sprague	Bates	28	\$308,804	
Otter Creek	St. Clair	75	\$965,715	
Moore's Branch	Vernon	26	\$143,069	
Mindenmines (Phase II)	Barton	37 Wells	\$12,720	

Harmony School Shafts	Bates	5 Shaft/Well	\$4,505
Claybank Creek Childress	Randolph/Macon	7	\$127,517
Subsidence	St. Louis	Grouting	\$7,717
Bills Coal	Vernon	35	\$364,626
FY98 Totals	8 Projects	<u>171</u> acres	

Fulton	Callaway	26	\$672,291
Bear Creek	Henry	18	\$245,192
FY99 Totals	2 Projects	<u>44</u> acres	

Hickory Hill Shafts	Bates	2 shafts	\$3,524
Hidden Valley Shaft	Callaway	1 shaft	\$805
Turner	Barton	10	\$76,573
Valle	Dade	5	\$40,000
FY00 Totals	4 Projects	<u>15</u> acres	

Godfrey Drift	Cedar	3 VO,2 Portal	\$1,500
Turner Shafts	Barton	7 portals	\$6,500
Perry Mine Fire Emerg.	Monroe	5	\$24,165
Osage Township Subsid.	Bates	1	\$24,626
North Weyer	Macon	4 shafts,2ac.	\$10,874
FY01 Totals	5 Projects	<u>8</u> acres	