



KENTUCKY COAL ASSOCIATION

ACKNOWLEDGEMENTS

The Mine Land Stewardship Initiative

We would like to thank
David Ledford, President & CEO
Appalachian Wildlife Foundation
1005 South Main Street, Suite 104
Corbin, KY 40701.





On behalf of the Kentucky Coal Association (KCA) and its member companies, we would like to thank David Ledford, of the Appalachian Wildlife Foundation, for this white paper entitled *The Mine Land Stewardship Initiative* (MLSI).

At KCA, we believe it is necessary to explain new and emerging public policy topics and how they might reshape the mining industry. This latest white paper describes a new voluntary ecological performance standard for coal mining being developed through a collaboration among coal producers, land and mineral owners, coal burning utilities, universities, state wildlife agencies, and a broad collection of wildlife conservation non-governmental organizations. It examines ways sustainable land use can benefit everyone whether it is the community where the coal is mined, the company, the landowner, or citizens just concerned about the environment.

For more than sixty years, KCA has continued its tradition of telling the story of Kentucky coal. The representation of our membership includes Eastern and Western Kentucky operations, as well as surface and underground production. This statewide membership creates a diverse but representative perspective on issues involving our coal industry. This diversity allows the Association to build a consensus approach in problem solving and addressing the complex challenges facing our industry today.

Please contact me at KCA with any questions or comments in regards to the compilation and distribution of this publication at 859/233-4743 or by email at bbissett@kentuckycoal.com.

Sincerely,

A handwritten signature in black ink that reads "Bill Bissett". The signature is fluid and cursive, with a long horizontal stroke extending from the end.

Bill Bissett, President
Kentucky Coal Association



INTRODUCTION

The Mine Land Stewardship Initiative (MLSI) is a program of voluntary ecological performance standards for coal mining. The MLSI is based on the premise that responsible environmental behavior and sound business decisions can coexist to the benefit of communities, landowners, shareholders and the environment. While the mining of coal is not sustainable because coal is a finite resource that is gone once it has been mined, the land on which coal is mined can be managed and restored in a manner that achieves sustainable land uses.

The ongoing debate over the mining and use of coal among regulators, environmental groups, elected officials, coal operators and the public is very heated and contentious at times, with the future of coal development and use in the United States hanging in the balance. The current, and seemingly continuous, re-write of mining regulations and the routine legal challenges to mining activity have created an enormous amount of uncertainty in the coal and utility industries. The coal industry's social license to operate is at stake.

Concurrently, electric utility companies are questioning coal companies about their sustainability practices, including ecological performance, and are looking for performance baselines. American Electric Power was the first to do this and they have now conducted three surveys of their coal suppliers to ascertain current performance and to determine how to set performance baselines. In Europe, a group of major utilities has formed a cooperative called Bettercoal to develop a program that will "promote the continuous improvement of corporate responsibility in the coal supply chain, with a specific focus on the mines themselves".

To address these challenges, the Appalachian Wildlife Foundation (AWF) is leading a collaborative effort to develop a voluntary program that sets baselines and elevates the overall ecological performance of the coal industry. The MLSI will create standards to improve 1) the conservation and restoration of ecosystem services, 2)

the conservation and restoration of wildlife habitat and species, 3) the protection of water quality, 4) recreational opportunities for mining communities, and 5) the scientific and technical knowledge needed to protect and restore wildlife and aquatic habitats on mine lands. Companies that choose to participate in the MLSI will agree to adhere to these standards, with performance confirmed through a rigorous third party auditing process. When a company is deemed to have adhered to the standards, the coal they produce can be certified as having been produced under the performance standards. One long term goal is that coal companies and lands that are certified under the MLSI will be preferred sources of coal for electric utilities, steel makers and other coal purchasers.

The performance measures are being created through a collaborative process among coal suppliers, mineral and land owners, utility companies, conservation groups, wildlife conservationists, and coal community representatives. The performance standards will be completed in 2013, and companies can begin implementation soon thereafter.

BACKGROUND

The Surface Mining Control and Reclamation Act of 1977 (SMCRA) is the primary federal law that regulates the environmental effects of coal mining in the United States. SMCRA created two programs: one for regulating active coal mines and a second for reclaiming abandoned mine lands. SMCRA also created the Office of Surface Mining, an agency within the Department of the Interior, to promulgate regulations, to fund state regulatory and reclamation efforts, and to ensure consistency among state regulatory programs. Forty-eight states have primacy over the implementation of SMCRA, resulting in the creation and maintenance of numerous state agencies involved in the implementation of regulations.

Coal producers must also adhere to regulations imposed under the Clean Water Act (CWA) which is enforced by the US Army Corps of Engineers, with guidance from the En-



Environmental Protection Agency. The mining industry also complies with the Endangered Species Act (ESA) which is administered by the U.S. Fish and Wildlife Service.

After 35 years of regulatory efforts aimed at addressing the ecological impacts and the restoration of mined lands, the current climate surrounding these issues is very contentious and some would describe it as broken. Efforts to change or improve ecological performance through regulatory adjustments and rule changes become very heated and political, and in general, the stakeholders are not satisfied with the results.

Thus, the MLSI is a voluntary, private sector-driven program to address ecological outcomes on mined lands. The MLSI is not duplicating the requirements made by SMCRA, the CWA, or the ESA. The goal of the MLSI is to voluntarily implement performance measures that can enhance the overall ecological performance of participants beyond what is required by law.

DEVELOPMENT TEAM

With the AWF, the current Program Participants in the MLSI include Natural Resource Partners L.P., Alpha Natural Resources, Arch Coal, TECO Coal, Patriot Coal, American Electric Power and Duke Energy. Other coal producers, mineral and mine land owners, and utility companies have participated in MLSI forums and are being recruited. To begin the process of developing the performance measures of the MLSI, numerous wildlife conservation interests were consulted, including state wildlife agencies, universities and non-profit wildlife conservation organizations. These organizations provided the initial thoughts on what measures for improved ecological performance needed to be included in the MLSI. The process began with requests for content and took several months to complete. That initial effort then culminated in a two-day, face-to-face workshop in Lexington, Kentucky in January 2012 where more than

25 people from a wide variety of wildlife conservation interests came together with representatives from the coal and utility industries to solidify the formative thoughts and principles of the MLSI. Since then, these same organizations - who are collectively referred to as the Conservation Panel have provided valuable feedback and critical analysis of our draft performance measures.

DEVELOPMENT PROCESS

The organizational framework of the MLSI follows the pattern of an outline, with the following primary components:

Principles – The vision and basis of the MLSI.

Objectives – The fundamental goals of the MLSI.

Performance Measures – Methods for determining whether an Objective is being achieved.

Indicators – A specific metric used for assessing conformance to a performance measure.

Beginning with the input received from the Conservation Panel, the AWF drafted the initial Principles, Objectives, Performance Measures and Performance Indicators. These drafts were then reviewed, discussed, edited and re-written through an iterative process with the Program Participants. The draft documents were then sent to the Conservation Panel who provided excellent feedback and critical analysis. This process will repeat, and after the next round of edits we will seek comments and feedback from a more public forum on the AWF website and through direct solicitation of stakeholders.

A process for continual improvement has been built into the MLSI. Once the official launch has occurred and implementation of the MLSI has begun, the standards will be reviewed and revised every 5 years, with the review beginning at year 3.5.



OVERVIEW OF THE STANDARDS

THESE ARE THE CURRENT PRINCIPLES OF THE MLSI:

- **Compliance**
Mine lands shall be managed in compliance with applicable legal requirements. Exceptions to legal requirements must be addressed in a timely and responsible manner.
- **Sustainable Land Use**
Mine lands shall be developed in a manner that allows the identified future uses to be developed and sustained.
- **Land Management Planning**
Management planning will be conducted and documented to identify the, principles, procedures and practices critical to long-term, sustainable land management.
- **Ecosystem Services**
Mine Lands shall be managed in accordance with identified priority ecosystem services. There are four categories of ecosystem services; provisioning, regulating, cultural and supporting. (Note – habitat, wildlife, biodiversity, water quality, aesthetics, recreation, etc. are all related to ecosystem services and covered in the Objectives section.)
- **Research**
Mine Land Stewards shall endeavor to contribute to research that improves Mine Land Stewardship.
- **Competency**
Mine Land Stewards must be competent in the skills and techniques needed to practice Mine Land Stewardship.
- **Public Involvement**
The practice of Mine Land Stewardship shall incorporate input from the public in land management planning and implementation.
- **Transparency**
Documentation associated with certification and audits shall be available to the public.
- **Procurement**
Procurement practices that recognize high performance and expand and enhance the practice of mine land stewardship shall be encouraged.
- **Continual Performance Improvement**
Systems are established that strive for the continual improvement in long-term land management.



While these Principles form the foundation of the MLSI, the Objectives, Performance Measures and Indicators describe how these Principles will be upheld.

The MLSI applies to mine lands throughout North America. MLSI Participants must comply with all portions of the MLSI relevant to their operations, taking into account their local conditions and circumstances and the scope and scale of their operations. They are also required to invest in research that adds to the scientific knowledge base to enhance the ecological performance of coal mining and increase the overall sustainability of mine lands.

CONCLUSION

The AWF and the Program Participants believe the MLSI offers the best opportunity to improve overall ecological performance and the stewardship of mine lands. The time is past due for us to come together with stakeholders to find solutions to the conservation challenges created by the extraction of coal. The global consumption of coal is projected to increase over the next 50 years in spite of the expansion of the use of alternative fuels and renewable energy sources. Regulations provide a needed baseline for performance, but do not generate detailed improvements, with the appropriate flexibility, needed to actually achieve the best conservation outcomes for mine lands.

Become part of the MLSI to become part of the solution.



KENTUCKY COAL ASSOCIATION
2800 PALUMBO DRIVE, SUITE 200
LEXINGTON, KENTUCKY 40509
PHONE: 859-233-4743

WWW.KENTUCKYCOAL.COM