

**REPORT OF THE AUDIT OF THE KENTUCKY
RECLAMATION GUARANTY FUND**

**For The Fiscal Year Ended
June 30, 2018**



**MIKE HARMON
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MIKE HARMON
AUDITOR OF PUBLIC ACCOUNTS

Danny Hall, Executive Director
Office of the Kentucky Reclamation Guaranty Fund
300 Sower Blvd.
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Independent Auditor's Report

Report on the Financial Statements

We have audited the accompanying modified cash basis financial statements of the Kentucky Reclamation Guaranty Fund (KRGF), as of and for the year ended June 30, 2018, and the related notes to the financial statements, which collectively comprise KRGF's basic financial statements as listed in the table of contents.

Management's Responsibility for the Financial Statements

KRGF's management is responsible for the preparation and fair presentation of these financial statements in accordance with the modified cash basis of accounting described in Note 2; this includes determining that the modified cash basis of accounting is an acceptable basis for the preparation of the financial statements in the circumstances. Management is also responsible for the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

Our responsibility is to express an opinion on these financial statements based on our audit. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to the financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.



We believe the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Opinion

In our opinion, the financial statements referred to above present fairly, in all material respects, the respective modified cash basis financial position of KRGF, as of June 30, 2018, and the respective changes in financial position - modified cash basis and, where applicable, cash flows, thereof for the year then ended on the basis of accounting described in Note 2.

Basis of Accounting

We draw attention to Note 2 of the financial statements, which describes the basis of accounting. The financial statements are prepared on a modified cash basis of accounting, which is a comprehensive basis of accounting other than accounting principles generally accepted in the United States of America. Our opinion is not modified with respect to this matter.

Other Reporting Required by Government Auditing Standards

In accordance with *Government Auditing Standards*, we have also issued our report dated September 24, 2018 on our consideration of KRGF's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering KRGF's internal control over financial reporting and compliance.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Mike Harmon", with a long horizontal line extending to the right.

Mike Harmon
Auditor of Public Accounts

September 24, 2018

FINANCIAL STATEMENTS

KENTUCKY RECLAMATION GUARANTY FUND
BALANCE SHEET - MODIFIED CASH BASIS
JUNE 30, 2018

	Office of the Reclamation Guaranty Fund	Kentucky Reclamation Guaranty Fund	Total
	<u> </u>	<u> </u>	<u> </u>
Assets			
Cash and Cash Equivalents	\$ 39,005	\$ 45,515,896	\$ 45,554,901
Total Assets	<u>\$ 39,005</u>	<u>\$ 45,515,896</u>	<u>\$ 45,554,901</u>
 Fund Balance			
Restricted (See Note 2)	\$ 39,005	\$ 45,515,896	\$ 45,554,901
Total Fund Balance	<u>39,005</u>	<u>45,515,896</u>	<u>45,554,901</u>
Total Liabilities and Fund Balance	<u>\$ 39,005</u>	<u>\$ 45,515,896</u>	<u>\$ 45,554,901</u>

The accompanying notes are an integral part of this financial statement.

**KENTUCKY RECLAMATION GUARANTY FUND
STATEMENT OF RECEIPTS, EXPENDITURES,
AND CHANGES IN FUND BALANCES - MODIFIED CASH BASIS
FOR THE YEAR ENDED JUNE 30, 2018**

Receipts	Office of the Reclamation Guaranty Fund	Kentucky Reclamation Guaranty Fund	Total
Tonnage Receipts	\$	\$ 1,806,269	\$ 1,806,269
Registration Fees		190,000	190,000
Bond Forfeitures		327,391	327,391
Fines and Late Fees		159,535	159,535
Interest Income	1,248	415,699	416,947
Federal Receipts	7,968		7,968
Indirect Operating Credit	27,773		27,773
Reimbursements for Employee Trainings	1,380		1,380
Total Receipts	<u>38,369</u>	<u>2,898,894</u>	<u>2,937,263</u>
Expenditures			
Professional Services	283,973		283,973
Salaries & Wages	115,167		115,167
Fringe Benefits	88,279		88,279
Maintenance and Supplies	18,434		18,434
Rent	21,572		21,572
Commission Per Diem	3,000		3,000
Postage and Printing Services	5,260		5,260
Utilities	3,549		3,549
Other Personnel Costs	1,065		1,065
Miscellaneous	339		339
Telecommunications	829		829
Internal Computer Service	827		827
Travel Expenses and Allowances	2,294		2,294
Commodities	137		137
Conferences and Training	1,095		1,095
Commissioner's Office	18,422		18,422
Total Expenditures	<u>564,242</u>	<u></u>	<u>564,242</u>
Other Financing Sources (Uses)			
Transfers In	463,200		463,200
Transfers Out		(463,200)	(463,200)
Total Other Financing Sources (Uses)	<u>463,200</u>	<u>(463,200)</u>	<u></u>
Net Change in Fund Balance	(62,673)	2,435,694	2,373,021
Fund balance, beginning	101,678	43,080,202	43,181,880
Fund balance, ending	<u>\$ 39,005</u>	<u>\$ 45,515,896</u>	<u>\$ 45,554,901</u>

The accompanying notes are an integral part of this financial statement.

NOTES TO THE FINANCIAL STATEMENTS

KENTUCKY RECLAMATION GUARANTY FUND
NOTES TO THE FINANCIAL STATEMENTS
JUNE 30, 2018

Note 1 – Nature of Organization

The Kentucky Reclamation Guaranty Fund

The Kentucky Reclamation Guaranty Fund (KRGF) was established July 1, 2013 by the Kentucky General Assembly through House Bill 66 and codified at KRS 350.500 - 350.521. KRGF is an interest bearing account that was created for the purpose of providing additional monies for the reclamation of forfeited coal mining operations where the permit specific performance bonds are insufficient for the Commonwealth to complete reclamation to program standards. Participation in KRGF is mandatory for all companies mining coal in the Commonwealth, with certain exclusions.

The initial capitalization of KRGF was provided by the assets of the former voluntary Kentucky Bond Pool that was abolished by House Bill 66.

Oversight and governance of KRGF is maintained by a seven member commission known as the Kentucky Reclamation Guaranty Fund Commission. Members are appointed by the Governor and represent the Energy and Environment Cabinet as well as the coal and financial industries. Members of the coal industry represent small, medium, and large coal producers with respect to the tonnage mined on an annual basis. Representatives from the financial industry have experience related to the coal industry. The members are appointed to various terms of two, three and four years.

The Office of the Reclamation Guaranty Fund

The Office of the Reclamation Guaranty Fund (ORGF) performs administrative functions on behalf of the KRGF Commission. These duties include:

- The review and assignment of classification of mine types on an annual basis;
- Processing fee payments resulting from the annual classifications;
- Notification to mining companies of penalties and permit suspensions for late or non-payment of fees;
- Reporting annually to the Governor and Interim Joint Committee on Natural Resources and Environment;
- Implementation of audits and actuarial studies on an annual basis regarding the financial status and solvency of KRGF; and
- Processing claims for additional monies necessary to complete reclamation of forfeited mine permits.

ORGF is funded by a combination of KRGF monies and annual grants from the U. S. Office of Surface Mining, Reclamation and Enforcement; no monies are received from Kentucky's General Fund.

KENTUCKY RECLAMATION GUARANTY FUND
NOTES TO THE FINANCIAL STATEMENTS
JUNE 30, 2018
(Continued)

Note 2 – Summary of Significant Accounting Policies

This summary of significant accounting policies of KRGF is presented to assist in understanding KRGF's financial statements. The financial statements and notes are the representation of KRGF's management, who is responsible for their integrity and objectivity. These accounting policies conform to the cash basis of accounting described below and have been consistently applied in the presentation of the financial statements.

Reporting Entity

For purposes of this report, the reporting entity is KRGF. The objectives of KRGF encompass ORGF and therefore ORGF financial activity is presented as well.

Basis of Presentation

The accompanying financial statements have been prepared on a cash basis of accounting modified by the application of KRS 45.229, which is a comprehensive basis of accounting other than accounting principles generally accepted in the United States of America. This statute provides that for a period of 30 days after the close of any fiscal year, warrants may be drawn against available balances of appropriations made for that fiscal year, for the payment of expenditures incurred during the year or in fulfillment of contracts properly made during the year but for no other purpose.

Receipts

KRGF is maintained through onetime membership fees paid by participating companies, the annual assessment and collection of coal tonnage and acre fees from those entities, late fees collected from overdue payments, accrued interest on monies in KRGF and a share of monies collected from the Division of Mine Reclamation and Enforcement for violations and penalties issued. KRGF also receives the proceeds from the forfeitures of reclamation bonds, initially provided by coal companies to guarantee reclamation on mine sites; however, these moneys are specifically earmarked for those forfeited permits.

Restricted Fund Balances of ORGF and KRGF

The fund balances for both ORGF and KRGF represent the difference between assets and liabilities reported on their respective balance sheets. In accordance with KRS 350.503(6), "any moneys remaining in the fund at the close of a fiscal year shall not lapse, but shall be carried forward into the succeeding fiscal year for use as provided in this section" (to assist in the reclamation of forfeited mine sites).

Funds are restricted, in accordance with KRS 350.503, for the purpose of reclamations, compensating the Energy and Environment Cabinet for administration costs, funding audits and actuarial studies, and covering operating and legal expenses of the Reclamation Guaranty Fund Commission.

KENTUCKY RECLAMATION GUARANTY FUND
NOTES TO THE FINANCIAL STATEMENTS
JUNE 30, 2018
(Continued)

Note 3 – Cash and Cash Equivalents

Participation in the Commonwealth’s Internal Cash and Investment Pool

Agency receipts are deposited in the Commonwealth’s general depository administered by the State Treasurer, who has statutory responsibility and authority to safeguard the monies. KRGF participates in the internal cash and investment pool of the Commonwealth of Kentucky. Therefore, it follows the policies established by the Commonwealth for all pooled cash and investments. The Commonwealth’s internal investment pool offers same day liquidity with no limitations, fees or restrictions on withdrawals. The risk disclosures related to deposits and investments are reported in the Commonwealth of Kentucky’s Comprehensive Annual Financial Report. Accordingly, the Commonwealth of Kentucky’s Comprehensive Annual Financial Report should be referred to for disclosures required by the Governmental Accounting Standards Board. For the year ended June 30, 2018, KRGF’s position in the pool totaled \$45,515,896 and ORGF’s position in the pool totaled \$39,005

Note 4 – Reclamation Liability

An actuarial analysis of KRGF was issued in February 2018. This report analyzed projected reclamation costs in various scenarios based on numerous assumptions which are detailed in the report. Because the statements are prepared on a modified cash basis, any potential reclamation liability and corresponding claims expense is not incurred or presented in the financial statements. For inquiries regarding this report, contact ORGF.

Note 5 – Transfers

The transfers in the financial statements for ORGF relate to incoming transfers from KRGF for operating expenditures.

Transfers In	Transfers Out			Total
	ORGF	KRGF	Bond Pool	
ORGF		463,200		\$ 463,200
KRGF				
Bond Pool				
Total		\$ 463,200		

KENTUCKY RECLAMATION GUARANTY FUND
NOTES TO THE FINANCIAL STATEMENTS
JUNE 30, 2018
(Continued)

Note 6 – Retirement and Other Post Employment Benefit Plans

The employees of ORGF participate in the Kentucky Employees Retirement Systems (KERS) of the Commonwealth of Kentucky, which is a cost-sharing, multiple-employer, defined benefit pension and other post-employment benefits (OPEB) plan covering substantially all regular full-time employees. The plan provides retirement, disability, and death benefits to plan members. KERS provides for cost-of-living adjustments at the discretion of the Kentucky legislature.

Employees who retire at or after age 65 with 48 months of credited service are entitled to a retirement benefit based on a range of 1.97% to 2.2% of their final average salary multiplied by their years of service. Final average salary is the employee's average of the three or five fiscal years during which the employee had the highest average monthly salary. Benefits fully vest on reaching five years of service. Vested employees may retire after 27 years of service and receive full benefits; or retire after age 55 and receive reduced benefits. KERS also provides death and disability benefits. Benefits are established by Kentucky Revised Statutes.

The ORGF portion of payroll for employees, who are all covered by KERS, for the year ended June 30, 2018 totaled \$115,167. Covered employees are required by state statute to contribute 5 percent of their salary to KERS. For fiscal year 2018, ORGF is required by the same statute to contribute 41.06 percent of the covered employees' salaries for pensions and 8.41 percent for OPEB. The contribution requirement for the year ended June 30, 2018 was approximately \$47,288 for pensions and \$9,685 for OPEB. The total employer contributions made for the year ended June 30, 2018 was \$50,908 for pensions and \$10,427 for OPEB.

On June 27, 2008 House Bill 1, the Pension Reform legislation, was signed into law. This legislation significantly impacted retirement benefits for employees who begin participating with KERS on or after September 1, 2008. The law also includes provisions that will affect current employees and retirees. For those employees beginning participation on or after September 1, 2008 they will be required to contribute 6 percent of their annual covered salary. Employers, including ORGF, will continue to be required to contribute an actuarially determined rate. House Bill 1 contained a provision expressing the intent of the General Assembly to gradually increase the employer contributions to KERS beginning July 1, 2010. If in the future the General Assembly adheres to this schedule, all participating agencies will be required to pay the full employer contribution by 2025. The financial impact to ORGF in future years is not yet known.

KENTUCKY RECLAMATION GUARANTY FUND
NOTES TO THE FINANCIAL STATEMENTS
JUNE 30, 2018
(Continued)

Note 6 – Retirement and Other Post Employment Benefit Plans (Continued)

Covered employees hired after December 31, 2013, are eligible to participate in a cash balance plan which requires employees to pay a pre-tax 5 percent rate based on creditable compensation. The employee's account is also credited with a 4 percent employer pay credit. In addition to the 5 percent contribution, all active employees participating on or after January 1, 2014 pay a 1 percent pretax contribution to KERS Insurance Fund. At the end of each fiscal year, interest is paid into the employee's account. The account is guaranteed 4 percent interest credit on the employee's account balance as of June 30 of the previous year. The employee's account may be credited with additional interest if the five-year average investment return exceeds 4 percent. At the time of termination, the employee is eligible to either take a refund of the accumulated account balance if vested (five or more years of service), or annuitize their account balance, if eligible for retirement. If the employee terminates employment and requests a refund prior to vesting, the employee is eligible only for the employee's contributions and associated interest, and forfeits the employer pay credit and associated interest.

Contribution rates for OPEB for employers and employees are established by the Budget Bill. Members who were hired before September 1, 2008 do not contribute to the OPEB plan directly. Instead, assets have been allocated between pension and retiree medical liabilities on the basis of accrued liability as of July 1, 2007. This amount has then been brought forward from that date based on actual cash flows and prorated allocation of investment returns. Members hired on or after September 1, 2008 contribute 1 percent of their official salary

Ten-year historical trend information showing KERS progress in accumulating sufficient assets to pay benefits when due is presented in the KERS Annual Financial Report (which is a matter of public record). The Commonwealth of Kentucky's Comprehensive Annual Financial Report (CAFR) should be referred to for additional disclosures related to the Kentucky Retirement System.

Because these financial statements are prepared on the modified cash basis, certain disclosures and financial statement accounts related to GASB 68 and GASB 75 are not applicable and therefore not included in the financial statements or notes to the financial statements. For disclosures related to GASB 68 and GASB 75, see the Commonwealth of Kentucky's CAFR.

In addition to the above defined benefit pension plan, ORGF's employees are also eligible to participate in two deferred compensation plans sponsored by the Commonwealth of Kentucky. These plans are organized as a Section 457 plan and as a Section 401(k) plan under the Internal Revenue Code. Both plans permit employees to defer a portion of their salary until future years. Deferred compensation is not available to employees until termination, retirement, death, or financial hardship. The Commonwealth of Kentucky's CAFR should be referred to for additional disclosures related to the deferred compensation plans.

**KENTUCKY RECLAMATION GUARANTY FUND
NOTES TO THE FINANCIAL STATEMENTS
JUNE 30, 2018
(Continued)**

Note 7 – Accounting Standard Changes

The following Governmental Accounting Standards Board (GASB) Accounting Pronouncement was adopted and implemented during the fiscal year:

GASB Statement No. 75 – Accounting and Financial Reporting for Postemployment Benefits Other Than Pensions.

This statement establishes new accounting and financial reporting requirements for OPEB plans, including standards for recognizing and measuring liabilities, deferred outflows of resources, deferred inflows of resources, and expenses. The Commonwealth of Kentucky's Comprehensive Annual Financial Report (CAFR) should be referred to for additional disclosures related to GASB Statement No. 75.

**REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING
AND ON COMPLIANCE AND OTHER MATTERS BASED ON AN AUDIT OF
FINANCIAL STATEMENTS PERFORMED IN ACCORDANCE
WITH *GOVERNMENT AUDITING STANDARDS***



MIKE HARMON
AUDITOR OF PUBLIC ACCOUNTS

Report On Internal Control Over Financial Reporting And
On Compliance And Other Matters Based On An Audit Of
Financial Statements Performed In Accordance With
Government Auditing Standards

Independent Auditor's Report

Danny Hall, Executive Director
Office of the Kentucky Reclamation Guaranty Fund
300 Sower Blvd.
Frankfort, Kentucky 40601

We have audited, in accordance with the auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States, the modified cash basis financial statements of the Kentucky Reclamation Guaranty Fund (KRGF) as of and for the year ended June 30, 2018, and the related notes to the financial statements, which collectively comprise KRGF's basic financial statements, and have issued our report thereon dated September 24, 2018.

Internal Control Over Financial Reporting

In planning and performing our audit of the financial statements, we considered KRGF's internal control over financial reporting (internal control) to determine the audit procedures that are appropriate in the circumstances for the purpose of expressing our opinions on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of KRGF's internal control. Accordingly, we do not express an opinion on the effectiveness of KRGF's internal control.

A *deficiency in internal control* exists when the design or operation of a control does not allow management or employees in the normal course of performing their assigned functions, to prevent, or detect and correct misstatements on a timely basis. A *material weakness* is a deficiency, or a combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected on a timely basis. A *significant deficiency* is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.



Danny Hall, Executive Director
Office of the Kentucky Reclamation Guaranty Fund
(Continued)

Our consideration of internal control over financial reporting was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies and therefore, material weaknesses or significant deficiencies may exist that were not identified. Given these limitations, during our audit we did not identify any deficiencies in internal control that we consider to be material weaknesses. However, material weaknesses may exist that have not been identified. We did identify a deficiency in internal control, described in the accompanying Schedule of Findings and Recommendations that we consider to be a significant deficiency: KRGF-01.

Compliance and Other Matters

As part of obtaining reasonable assurance about whether KRGF's financial statements are free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

KRGF's Response to Findings

KRGF's response to the finding identified in our audit is described in the accompanying Schedule of Findings and Recommendations. KRGF's response was not subjected to the auditing procedures applied in the audit of the financial statements and, accordingly, we express no opinion on it.

Purpose of this Report

The purpose of this report is solely to describe the scope of our testing of internal control and compliance and the result of that testing, and not to provide an opinion on the effectiveness of the entity's internal control or on compliance. This report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the entity's internal control and compliance. Accordingly, this communication is not suitable for any other purpose.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Mike Harmon", with a horizontal line extending to the right.

Mike Harmon
Auditor of Public Accounts

September 24, 2018

SCHEDULE OF FINDINGS AND RECOMMENDATIONS

**KENTUCKY RECLAMATION GUARANTY FUND
SCHEDULE OF FINDINGS AND RECOMMENDATIONS
FOR THE YEAR ENDED JUNE 30, 2018**

KRGF-01: Participating Companies In The Kentucky Reclamation Guaranty Fund Are Not Reporting Mining Activity Through Required Methods

The Office of the Reclamation Guaranty Fund (ORGF) uses templates referred to as the Kentucky Reclamation Guaranty Fund Quarterly Report (RGF form) to ensure participating companies correctly remit statutorily defined fees, such as membership, assessment, and tonnage fees, to the Kentucky Reclamation Guaranty Fund (Fund). These templates enable companies to input their mining information, based on various types of mining activities, and calculate their liability to the Fund. This issue was first described in the fiscal year 2014 and 2015 audit reports issued by the Auditor of Public Accounts. The finding was included as finding KRGF-01 in the fiscal year 2017 audit. In response to this issue, the ORGF began using utilizing a new system for collecting and tracking fees due from coal companies starting January 1, 2018 in which companies can submit the information online rather than with physical forms. Companies had the option to either submit physical forms or to use the online system for the second half of the fiscal year. For calendar year 2019, only the new system will be utilized. The issues related to the prior year finding are still present. During testing of fiscal year 2018 receipts, 14 instances were noted in which companies did not submit RGF forms or submit the required information online.

The utilization and submission of the RGF forms are not only a central component of internal controls over receipts and financial reporting, but are also mandated by statute and regulation.

Upon inquiry, ORGF staff related that the variety of participating companies contributed to the challenges associated with obtaining timely, accurate, and complete RGF forms. Some, typically larger, companies had staff dedicated to completing administrative and compliance tasks while others did not. Also, the volatility of the coal industry—particularly regarding bankruptcies, acquisitions, and the overall business environment—impeded interaction and follow up with certain companies.

If participating companies do not submit the required mining information to the ORGF, the risk of noncompliance with regulations by way of underpayments increases. Overpayments are also possible and despite being less detrimental to the health of the Fund, rectifying these issues results in an unnecessary administrative burden.

Considering the previously mentioned industry volatility, it is vital that staff quickly address discrepancies or issues with payments to the Fund. If a company enters bankruptcy, obtaining their payment to the Fund would be much more difficult.

Finally, the reclamation work supported by the Fund is vital to the Commonwealth which must be prepared to meet reclamation liabilities. This can only be achieved through the enforcement of fee payments supported by approved reporting methods. If not, the financial health of the Fund could be compromised.

**KENTUCKY RECLAMATION GUARANTY FUND
SCHEDULE OF FINDINGS AND RECOMMENDATIONS
FOR THE YEAR ENDED JUNE 30, 2018
(Continued)**

KRGF-01: Participating Companies In The Kentucky Reclamation Guaranty Fund Are Not Reporting Mining Activity Through Required Methods (Continued)

KRS 350.518(8) states:

Reporting and payment of fees shall be made in accordance with administrative regulations promulgated by the commission. The commission may request and review documents and reports from the Kentucky Department for Natural Resources and the United States Office of Surface Mining Reclamation and Enforcement to verify production records submitted by permittees.

405 KAR 10:070 Section 2(d)(2) states:

Reporting of tonnage and payment of fees shall be recorded on the Kentucky Reclamation Guaranty Fund Quarterly Fee Report, RGF-1, for each permit for which coal was mined and sold during the previous quarter or has coal reserves available to be mined. The reporting of tonnage shall be accompanied by the fee required in 405 KAR 10:090.

In addition, sound internal controls over financial reporting dictate that established procedures intended to facilitate efficient and accurate processing and recording of receipts be followed.

Recommendation

Mandatory reporting methods should be enforced. To achieve this, input from participating companies should be sought in order to obtain feedback on possible steps to improve and encourage the utilization of the online portal. If a company persists in noncompliant practices, then ORGF should consider referring the case to another department or agency for punitive action. Management should review the effectiveness of the new payment system as it is fully transitioned to in Fiscal Year 2019.

**KENTUCKY RECLAMATION GUARANTY FUND
SCHEDULE OF FINDINGS AND RECOMMENDATIONS
FOR THE YEAR ENDED JUNE 30, 2018
(Continued)**

KRGF-01: Participating Companies In The Kentucky Reclamation Guaranty Fund Are Not Reporting Mining Activity Through Required Methods (Continued)

Management's Response and Corrective Action Plan

The ORGF agrees with APA's assessment of the of the missing RGF forms. The auditor's understanding of the Cause and Effect is consistent with the ORGF's assessment as well. We believe that we have addressed this issue with the following changes to ORGF's business processes.

- 1. We have implemented a new web portal beginning with quarter one of 2018 that is replacing the old RGF forms. Member companies of the KRGF have the option to continue using the paper forms for calendar year 2018, but will only be able to report via the portal beginning January 2019.*
- 2. Beginning with the second quarter of 2018, the ORGF began assessing \$100 penalties for every permit not reported within 30 days of the end of the quarter. A letter was mailed to all member companies on June 21, 2018 stating the implementation of the new assessment.*

Unfortunately, time is required to fully implement and collect data on the changes. The ORGF hopes by the end of calendar year 2019 we will have sufficient data to assess the success or failure of the web portal and fees for failing to submit RGF forms.