

Reclamation Fee Fiscal-Year Report 2016

The regulations at 25 Pa. Code § 86.17(e)(2) require DEP to prepare a fiscal-year report containing a financial analysis of the revenue and expenditures of the Reclamation Fee O & M Trust Account.

25 Pa. Code § 86.17(e)(4) requires the following factors to be used to determine the amount of the Reclamation Fee:

- Current Balance in the Reclamation Fee O & M Trust Account
- Previous year revenue
 - Reclamation Fee
 - Interest
 - Civil Penalties
 - Other sources
- Previous year O & M Costs
- Projected number of acres subject to the Reclamation Fee
- Projected Revenue
 - Reclamation Fee
 - Interest
 - Civil Penalties
 - Other sources
- Projected expenditures

CURRENT BALANCE

The balance in the Reclamation Fee O & M Trust Account as of June 30, 2016 was \$3,309,951.07. This balance does not include civil penalties (\$177,991.53) collected during the fiscal year.

PREVIOUS YEAR REVENUE

Reclamation Fee

The Reclamation Fee for calendar year 2016 is \$100 per acre. The revenue from the Reclamation Fee from January 2016 through June 2016 is listed below:

Month	Reclamation Fee
Jan-16	\$830.00
Feb-16	\$250.00
Mar-16	\$9,220.00
Apr-16	\$17,250.00
May-16	\$4,860.00
Jun-16	\$4,390.00
Total	\$36,800.00

Interest

DEP credited interest on the funds in the Reclamation Fee O & M Trust Account to the account in the amount of \$10,086.71 from July 2015 through June 2016.

Civil Penalties

DEP transfers civil penalties (less the 5% due to the Environmental Education Fund) into the Reclamation Fee O & M Trust Account each year. The total revenue from civil penalties DEP collected between July 2015 through June 2016 is as follows:

Month	Coal Civil Penalties
Jul-15	\$12,907.00
Aug-15	\$13,265.00
Sep-15	\$16,92.00
Oct-15	\$2,682.50
Nov-15	\$6,800.00
Dec-15	\$70,987.50
Jan-16	\$9,500.00
Feb-16	\$7,950.00
Mar-16	\$15,750.00
Apr-16	\$10,895.00
May-16	\$15,455.00
Jun-16	\$4,242.50
Total	\$187,359.50

The net amount eligible for transfer to the Reclamation Fee O & M Trust Account is \$177,991.53. This is 95% of the collected civil penalties. The transfer of this amount was completed in August 2016. The remaining 5% is required by statute to be transferred to the Environmental Education Fund.

Other Revenue Sources

Under Act 157 of 2012, DEP may transfer the interest on the funds held in the Land Reclamation Financial Guarantee (LRFG) Account into the Reclamation Fee O & M Trust Account. This provided \$51,028.85 to the Reclamation Fee O & M Trust Account during the fiscal year. This was a lump sum DEP transferred in August 2015 of the interest accrued since DEP established the Land Reclamation Financial Guarantee Account in April 2013 through June 2015. An additional \$42,325.40 has accrued during fiscal year 2015-2016. DEP will transfer these funds during fiscal year 2016-2017.

Act 157 of 2012 also authorized the transfer of premium payments for Land Reclamation Financial Guarantees to the Reclamation Fee O & M Trust Account. DEP completed a transfer of \$300,000 from this source in June 2016.

PREVIOUS YEAR O & M COSTS

DEP incurred O & M costs in four categories: personnel, lab, grants and contracts. The total spent in 2015-2016 was \$501,358.39.

Personnel Costs

The total cost to the Reclamation Fee O & M Trust Account for personnel from July 2015 through June 2016 is \$19,609.50. This is for labor for the monitoring that is needed for several ABS Primacy bond forfeiture sites where it is more efficient for DEP to do this work instead of hiring a contractor.

Lab Costs

The total cost to the Reclamation Fee O & M Trust account for the samples collected and analyzed at the DEP lab for the ABS Primacy bond forfeiture sites from July 2015 through June 2016 is \$852.57.

Grants

Grant funds were spent in the amount of \$223,470.46 from July 2015 through June 2016.

Contracts

Contract costs for operation and maintenance of the existing ABS treatment facilities for July 2015 through June 2016 totaled \$256,999.45. In addition, direct payment for electricity was paid in the amount of \$426.41

PROJECTED NUMBER OF ACRES SUBJECT TO THE RECLAMATION FEE

The reclamation fees collected for January through June 2016 reflect 368 acres to which the fee was applicable. For a full year, this projects to 736 acres, which is substantially lower than DEP would anticipate based on numbers from prior individual years.

The table below lists the approximate number of acres permitted each year that would have been subject to the reclamation fee. These values are based upon acres authorized as tracked in the eFACTS database. The downward trend in the number of acres is noteworthy. Based on this trend and the lower than anticipated number of acres for which the fee was collected so far in 2016, the projected number of acres subject to the reclamation fee for 2017 is 1,500. Based on the trend it is expected that this number of acres will continue to shrink.

Year	Acres
2011	3,148
2012	2,287
2013	3,017
2014	2,542
2015	1,919

PROJECTED REVENUE

Reclamation Fee

The projected revenue for fiscal year 2016-2017 from the reclamation fee is \$50,000. This is based on the current fee of \$100 per acre through the end of 2016. As of September, \$40,598 had been collected for the fiscal year.

Interest

DEP estimates that interest on the money in the Reclamation Fee O & M Trust Account will generate about \$5,000 in income for the 2016-2017 fiscal year.

Civil Penalties

For purposes of the projection, DEP estimates that \$500,000 will be available from civil penalty revenue for the 2016-2017 fiscal year. This is based on the fact that through September, civil penalty revenue totaled \$2,372,370.00. During September 2016, a large (\$2,324,725.00) civil penalty settlement was deposited in the SMCRA Fund. The regulations (86.187(a)(1)(i)) require that up to \$500,000 of civil penalty revenue be transferred into the Reclamation Fee O & M Account. For amounts in excess of \$500,000, the Department may transfer money into the Reclamation Fee O & M Account. For the purpose of the projection, \$500,000 in revenue from civil penalties is used.

Other Revenue

Act 157 of 2012 provides other potential revenue streams to the Reclamation O & M Trust Account. These include an annual appropriation from the Gross Receipts Tax. The final budget for FY 2016-2017 included \$500,000 in the Environmental Program Management appropriation to be transferred to the Reclamation Fee O & M Trust Account.

In addition, the interest on the money supporting the Land Reclamation Financial Guarantees is expected to generate about \$85,000 during the fiscal year. This estimate is based upon the first three months of the fiscal year where the interest was about \$7,000 each month. This interest is transferred each year.

DEP has obtained the authorization to transfer \$300,000 from LRFG premiums for fiscal year 2016-2017. This provides a contingency for unexpected expenses or if revenue falls short of projections. DEP will defer the transfer of any of this money until it is necessary. Having this money available for transfer provides assurance that the Reclamation Fee O & M Trust Account will be able to be maintained above the required \$3,000,000 minimum balance.

PROJECTED EXPENDITURES

The total projected expenditures for fiscal year 2016-2017, as explained in further detail below, is \$980,499.00.

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Personnel Costs

The total projected debit for DEP personnel costs from the Reclamation Fee O & M Trust Account from July 2016 through June 2017 is \$17,000. The amount is for labor for the monitoring that DEP undertakes for the ABS Primacy bond forfeiture sites.

Lab Costs

The total projected debit from the Reclamation Fee O & M Trust account from July 2015 through June 2016 is \$10,000. This is the expected cost for the analysis of the samples collected and analyzed by DEP while monitoring the ABS Primacy bond forfeiture sites.

Grants

DEP projects it will spend approximately \$157,414 on O & M under grants from July 2016 through June 2017. This includes costs for the O & M for the following C & K sites where the Clean Streams Foundation is the trustee:

Site Name	Permit number
Bell Woodcock	11783035
Stroud	11823002
Cambria 51	11850106
Snyder-Sertik	10860118
Hill Estate	16713004
Smith-Heasley	16803030
Tremba-Horner	16830114
Kriebel	16840103
Racic	61783001

DEP added several Al Hamilton Contracting sites to the roster of ABS Legacy sites. DEP anticipates that it will execute a grant agreement with the Clean Streams Foundation for the O & M for these sites:

Site Name	Permit number
Miller Stein	17753159
Sandturn	17803176
Pearce	17820106
Carnwath	17820166
Ralston	17850109
Kauffman	17890115
Kauffman North	17970107
Little Beth	17723164

DEP projects that the O & M for these facilities will cost \$88,500 per year. However, this amount is included in the projected cost for contracts, in case a grant agreement is not put in place. For the purpose of planning, DEP has received authorization for \$50,000 for unexpected grants. However, DEP has not included this amount in the reclamation fee calculation.

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Contracts

DEP expects contract costs from July 2016 through June 2017 to total \$796,085. The contracts cover the following sites:

Company	Site Name	Contract Amount
H & D	Merola	\$7,000
Gurosik Coal Co.	King	\$43,000
REM	Truittsburg	\$7,000
REM	Orcutt Smail	\$78,000
Glacial	Blair	\$225,000
Avery Coal Co. Inc.	Pine Glen	\$36,806
Thompson Bros.	Alder Run	\$52,506
PA Energy Corp.	Horse Hill Strip	\$2,270
Acme Drilling	Broom Strip	\$2,601
Delta Mining Inc.	Maust Mine	\$24,000
D & E Construction	Moore	\$1,584
Delta Mining Inc.	Bashore	\$24,000
American Development	Job 33	\$28,847
Met Co. Mining & Minerals Inc.	Ankey Mine	\$46,784
Delta Mining Inc.	Hay 2	\$2,353
H & H Coal Co.	James E. Long	\$17,000
L & L	Berkey	\$1,000
Big J Mining Inc.	Sorber Mine	\$12,798
Windber High Std. Coal Co.	Brant Strip	\$11,000
L & B Coal Co	No. 5	\$1,591
K & J Coal Co. Inc.	Westover	\$32,652
K & J Coal Co. Inc.	Gaber Brown	\$7,352
Pengrove	Martin-Bell	\$20,000
C & O	Burkholder	\$1,772
Power Operating	Vought	\$7,000
Moshannon Passive Systems*	Multiple	\$13,669
Al Hamilton Sites	Multiple	\$88,500

*A contract is in place to do O & M, as needed, on a group of passive treatment sites managed by the Moshannon District Mining Office. The sites included under this contract include Power Operating Dugan 2 and Dugan 4, M & M Latherow, Thompson Bros. 001, Lobb Narco, Bernice Lewis, Avery Victoria and Chews Little D.

For the purpose of planning, DEP has received authorization for \$50,000 for unexpected contracts. However, DEP has not included this amount in the reclamation fee calculation.

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Financial Summary

Income	FY 2015-2016	FY 2016-2017 (Projected)
Interest	\$10,086.71	\$5,000.00
Reclamation Fee	\$36,800.00	\$50,000.00
Civil Penalties	\$177,991.53	\$500,000.00
Other (LRFG Interest)	\$42,325.40	\$85,000.00
LRFG Premium Transfer	\$300,000.00	
Appropriation	\$0.00	\$500,000.00
Total	\$567,203.64	\$1,140,000.00

Expenses	FY 2015-2016	FY 2016-2017 (Projected)
DEP Lab Costs	\$852.57	\$10,000.00
DEP Personnel	\$19,609.50	\$17,000.00
Contracts	\$256,999.45	\$796,085.00
Grants	\$223,470.46	\$157,414.00
Electricity	\$426.41	Included in Contracts
Total	\$501,358.39	\$980,499.00

Reclamation Fee Calculation

Based on the June 30 balance in the Reclamation Fee O & M Account (\$3,309,951.07), the civil penalties (\$177,991.53) transferred in August 2016, the projected revenue (\$1,140,000.00) and expenses (\$980,499.00), DEP has determined that a reclamation fee amount of \$0 per acre is needed for calendar year 2017. This will maintain the balance in the Reclamation Fee O & M Account of \$3,000,000 as required under 25 Pa. Code § 86.17(e)(3).

For the purpose of determining the reclamation fee amount, DEP did not include the authorized contingency of \$100,000 for contracts and grants in the calculation. DEP will closely monitor the balance in Reclamation Fee O & M Account to determine if it is approaching the \$3,000,000 threshold. If it is likely that the balance will approach the threshold, DEP can transfer of premium payments from LFRGs to maintain the balance above the required minimum.

Reclamation Fee Arithmetic

Pluses

Balance Above \$3 M	\$309,951.07
Civil Penalties (15-16)	\$177,991.53
Projected Income	\$640,000.00
2016-2017 Appropriation	\$500,000.00
Total	\$1,627,942.60

Minus

Expected Expenditures 2016-2017	\$980,499.00
Expected Expenditures Second half 2017	\$525,000.00
Total	1,505,499.00

Calculated Surplus	\$122,443.60
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2018 Projection

Based upon the spending and income trends, it is likely that a reclamation fee increase will be necessary beginning in January 2018. Preliminary estimates suggest that about \$300,000 will be necessary from the reclamation fee in order to maintain the balance of \$3,000,000. To generate this amount of revenue, a reclamation fee of \$200 per acre would be needed in calendar year 2018.

As an alternative, an appropriation from the Gross Receipts Tax could offset the need to impose a reclamation fee. In order to maintain the minimum balance without requiring revenue from the reclamation fee in calendar year 2017, the Account would require an infusion of at least \$500,000 for the 2016-2017 budget year. The need for supplemental funding to assure the long-term operations for the ABS Legacy Sites warrants the maximum appropriation of \$2,000,000 from the Gross Receipts Tax.

ABS Legacy Sites Trust Account

The ABS Legacy Sites Trust Account was established by regulation at 25 Pa. Code § 86.187(a)(2)(i), effective August 30, 2008. The following table presents the income and year-end balance in the ABS Legacy Site Trust Account for the last several years.

Year Ending	Income	Year-End Balance
June 30, 2012	\$14,425.56	\$5,674,432.38
June 30, 2013	\$12,415.83	\$5,686,848.21
June 30, 2014	\$9,818.27	\$5,696,666.48
June 30, 2015	\$10,448.00	\$5,707,114.48
June 30, 2016	\$17,996.58	\$5,725,111.06

Report Process

On September 3, 2016, notice of availability of the draft report was published in the *Pa. Bulletin*.

Comments were received from the Pennsylvania Coal Alliance and PennFuture. These comments are incorporated in this report as attachments. Among other things, the comments pointed out a math error which has been corrected in the final report.

The draft report indicated that a reclamation fee of \$100 per acre was needed for calendar year 2017. However, based on the unusually high amount of civil penalties collected in September 2016 and an adjustment to the projected revenue from interest on the Land Reclamation Financial Guarantee account, the amount was adjusted to \$0.

On October 20, 2016, the draft report was reviewed at the MRAB meeting.