

Reclamation Fee Fiscal-Year Report 2017

The Department of Environmental Protection (DEP) has prepared a fiscal-year report containing a financial analysis of the revenue and expenditures of the Reclamation Fee O & M Trust Account in accordance with 25 Pa. Code § 86.17(e).

DEP considered the following factors to determine the amount of the Reclamation Fee consistent with 25 Pa. Code § 86.17(e)(4):

- 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, 2017, was \$3,654,770.76. This balance does not include the civil penalties DEP collected (\$500,000.00) and will transfer to the account.

PREVIOUS YEAR REVENUE

Reclamation Fee

The Reclamation Fee for calendar year 2016 was \$100 per acre. The Reclamation Fee for 2017 was \$0 per acre, but some fees assessed in 2016 were deposited into the account in 2017. The revenue from the Reclamation Fee from July 2016 through June 2017 is listed below:

Month	Reclamation Fee
Jul-16	\$3,100.00
Aug-16	\$12,550.00
Sep-16	\$24,948.00
Oct-16	\$2,000.00
Nov-16	\$11,601.67
Dec-16	\$6,800.00
Jan-17	\$3,912.00
Feb-17	\$12,640.00

Month	Reclamation Fee
Mar-17	\$0.00
Apr-17	\$2,700.00
May-17	\$0.00
Jun-17	\$0.00
Total	\$80,251.67

Interest

DEP credited interest on the funds in the Reclamation Fee O & M Trust Account to the account in the amount of \$28,693.11 from July 2016 through June 2017.

Civil Penalties

DEP transfers civil penalties into the Reclamation Fee O & M Trust Account each year. A portion (5%) of all civil penalties collected by DEP are transferred to the Environmental Education Fund. The total revenue from civil penalties DEP collected between July 2016 through June 2017 is as follows:

Month	Coal Civil Penalties
Jul-16	\$14,295.00
Aug-16	\$8,655.00
Sep-16	\$2,349,420.00
Oct-16	\$13,605.00
Nov-16	\$20,330.00
Dec-16	\$14,655.00
Jan-17	\$10,250.00
Feb-17	\$6,325.00
Mar-17	\$6,950.00
Apr-17	\$7,508.75
May-17	\$13,766.00
Jun-17	\$4,233.50
Total	\$2,469,993.25

Pursuant to Section 86.187 (a)(1)(i), DEP could transfer up to \$2,346,493.59 to the Reclamation Fee O & M Trust Account (95% of the collected civil penalties). The regulations require that DEP deposit up to \$500,000 each fiscal year of the moneys collected from civil penalties. In the case where the amount collected exceeds \$500,000, DEP may deposit the amount in excess of \$500,000.

DEP initiated the transfer of \$500,000 in October 2017. DEP may transfer the remaining eligible balance (or a portion), if expenditures exceed expected costs and additional funds are needed to maintain the minimum balance in the Reclamation Fee O & M Trust Account. DEP will consider an additional transfer based on discussions with the Mining and Reclamation Advisory Board and other factors.

Other Revenue Sources

Under Section 19.2 of the Surface Mining Conservation and Reclamation Act (SMCRA), as amended in 2012 (52 P.S. § 1396.19b), 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. An amount of \$106,017.10 has accrued in the LRFG account during fiscal year 2016-2017. DEP will transfer these funds during fiscal year 2017-2018.

Section 19.2 of SMCRA also authorizes DEP to transfer of premium payments for Land Reclamation Financial Guarantees to the Reclamation Fee O & M Trust Account. DEP is not transferring any payments this year due to the available civil penalty revenue.

The 2016-2017 budget included an additional appropriation for Environmental Protection Management in the amount of \$500,000. This money was made available to the Reclamation Fee O & M Trust account in November 2016.

PREVIOUS YEAR O & M COSTS

DEP's Mining Program incurred O & M costs in four categories: personnel, lab, grants, and contracts. DEP spent a total of \$483,642.01 in 2016-2017.

Personnel Costs

DEP expended \$22,617.81 from the Reclamation Fee O & M Trust Account for personnel from July 2016 through June 2017 to monitor several ABS Primacy bond forfeiture sites.

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 2016 through June 2017 is \$423.61.

Grants

DEP awarded grants in the amount of \$106,358.99 from July 2016 through June 2017.

Contracts

Contract costs for operation and maintenance of the existing ABS treatment facilities for July 2016 through June 2017 totaled \$352,678.28. In addition, DEP made direct payment for electricity in the amount of \$1,563.32.

PROJECTED NUMBER OF ACRES SUBJECT TO THE RECLAMATION FEE

The reclamation fees collected for January through December 2016 reflect 978 acres to which the fees applied.

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 in 2016, the projected number of acres subject to the reclamation fee for 2018 is 1,000. Based on the trend, DEP expects that the number of acres subject to the reclamation fee will continue to decline.

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 2017-2018 from the reclamation fee is \$0.

Interest

DEP estimates that interest on the money in the Reclamation Fee O & M Trust Account will generate about \$25,000 in income for the 2017-2018 fiscal year.

Civil Penalties

For purposes of the projection, DEP estimates that \$200,000 will be available from civil penalty revenue for the 2017-2018 fiscal year.

Other Revenue

Section 19.2 of SMCRA provides other potential revenue streams to the Reclamation Fee O & M Trust Account. These include an annual appropriation from the Gross Receipts Tax.

In addition, DEP expects the interest on the money supporting the Land Reclamation Financial Guarantees to generate about \$120,000 during the fiscal year. This estimate is based upon the revenue from fiscal year 2016-2017 as the starting point, with an expectation that the amount will increase since the amount in the LRFG account is more than last year. DEP transfers this interest each year.

PROJECTED EXPENDITURES

The total projected expenditures for fiscal year 2017-2018, explained in further detail below, is \$827,486.00.

Personnel Costs

The total projected debit for DEP personnel costs from the Reclamation Fee O & M Trust Account from July 2017 through June 2018 is \$18,000. The cost reflects labor for the monitoring that DEP performs for the ABS Primacy bond forfeiture sites.

Lab Costs

The total projected debit from the Reclamation Fee O & M Trust account from July 2017 through June 2018 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 award grants of approximately \$274,127 for O & M from July 2017 through June 2018. This includes projected costs (\$178,537) 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 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 \$95,590 per year. However, this amount is included in the projected cost for contracts below, in case a grant agreement is not put in place. For planning purposes, DEP received authorization for \$50,000 for unexpected grants. However, DEP has not included this amount in the reclamation fee calculation.

Contracts

DEP expects contract costs from July 2017 through June 2018 to total \$525,359. The contracts cover the following sites:

Company	Site Name	Contract Amount
H & D	Merola	\$11,000
Gurosik Coal Co.	King	\$45,000
REM	Truittsburg	\$11,000
REM	Orcutt Smail	\$80,000
Pengrove	Martin Bell	\$15,000
Glacial	Blair	\$11,000
Avery Coal Co. Inc.	Pine Glen	\$25,542
Thompson Bros.	Alder Run	\$52,506
PA Energy Corp.	Horse Hill Strip	\$2,338
Acme Drilling	Broom Strip	\$2,679
Delta Mining Inc.	Maust Mine	\$2,453
D & E Construction	Moore	\$1,631
Delta Mining Inc.	Bashore	\$15,474
American Development	Job 33	\$29,712
Met Co. Mining & Minerals Inc.	Ankey Mine	\$46,784
Delta Mining Inc.	Hay 2	\$2,423
H & H Coal Co.	James E. Long	\$1,638
Laurel Land Development	McDermott	\$12,500
Big J Mining Inc.	Sorber Mine	\$13,182
Windber High Std. Coal Co.	Brant Strip	\$2,878
L & B Coal Co	No. 5	\$1,639
K & J Coal Co. Inc.	Westover	\$8,911
K & J Coal Co. Inc.	Gaber Brown	\$7,575
C & O	Burkholder	\$1,825
Power Operating	Vought	\$7,000
Moshannon Passive Systems*	Multiple	\$13,669
Moshannon Offset Site		\$100,000

*A contract is in place for 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 planning purposes, DEP has received authorization for \$50,000 for unexpected contracts. However, DEP has not included this amount in the reclamation fee calculation.

Financial Summary

Income	FY 2016-2017	FY 2017-2018 (Projected)
Interest	\$28,693.11	\$25,000.00
Reclamation Fee	\$80,251.67	\$0.00
Civil Penalties	\$500,000.00	\$200,000.00
Other (LRFG Interest)	\$106,017.10	\$120,000.00
LRFG Premium Transfer	\$0.00	\$0.00
Appropriation	\$500,000.00	\$0.00
Total	\$1,214,961.88	\$345,000.00

Expenses	FY 2016-2017	FY 2017-2018 (Projected)
DEP Lab Costs	\$423.61	\$10,000.00
DEP Personnel	\$22,617.81	\$18,000.00
Contracts	\$352,678.28	\$525,359.00
Grants	\$106,358.99	\$274,127.00
Electricity	\$1,563.32	Included in Contracts
Total	\$483,642.01	\$827,486.00

Reclamation Fee Calculation

Based on the June 30 balance in the Reclamation Fee O & M Account (\$3,654,770.76), the civil penalties (\$500,000) to be transferred, the projected revenue (\$345,000.00) and expenses (\$827,486.00), DEP has determined that a reclamation fee amount of \$0 per acre is needed for calendar year 2018. This will maintain the minimum 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 additional civil penalty funds to maintain the the required minimum balance.

Reclamation Fee Arithmetic

Pluses

Balance Above \$3 M	\$654,770.76
Civil Penalties (16-17)	\$500,000.00
Projected Income	\$345,000.00
Total	\$1,499,770.76

Minus

Expected Expenditures 2017-2018	\$827,486.00
Expected Expenditures Second half 2018	\$425,000.00
Total	\$1,252,486.00

Calculated Difference	+\$247,284.76
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2019 Projection

Based upon the spending and income trends, DEP does not expect that a reclamation fee increase will be necessary beginning in January 2019. Based on the availability of money from civil penalty collections from FY 2016-2017, funding is available to maintain the balance of \$3,000,000.

ABS Legacy Sites Trust Account

The ABS Legacy Sites Trust Account was established under 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
June 30, 2017	\$44,308.64	\$5,769,419.70

Report Process

On September 23, 2017, notice of availability of the draft report was published in the *Pennsylvania Bulletin*.

Comments were received from the Pennsylvania Coal Alliance and PennFuture. These comments are available on the eComment web page:

<http://www.ahs.dep.pa.gov/eComment/ViewComments.aspx?enc=8YWleHIdijzUAfiG53EkjQkrp%2bkiSb%2fvWmr7ozT7y7Q%3d>

Comments submitted to DEP regarding the draft report did not provide an alternative to the 2018 reclamation fee, which is projected to be \$0. However, the comments provided suggestions regarding where the excess civil penalty funds should be deposited. DEP reviewed the draft report with the Mining and Reclamation Advisory Board (MRAB) on October 19, 2017. DEP will continue to collaborate with MRAB on this topic.