

MINING AND RECLAMATION ADVISORY BOARD
Thursday, April 23, 2015
Harrisburg, PA

Rachel Carson State Office Building
Delaware Conference Room, 16th Floor

Voting Members/Alternates: Robert Burns (Member); Jack Chamberlin (Member); George Ellis (Alternate); Duane Feagley; (Alternate); Richard Fox (Alternate); Robert Hughes (Member); Rachel Hursh (Alternate); Darrel Lewis (Alternate); Jonathan Lutz (Alternate); Tara Smith (Alternate); Michele Tate (Alternate); Burt Waite (Member); and Ben Wren (Alternate).

Other Attendees: Bill Allen (DEP); Mike Bodner (Andregic Bodner Environmental Consulting, LLC); Brian Bradley (DEP – Bureau of Abandoned Mine Reclamation (BAMR)); Tom Callaghan (DEP – Bureau Director, Mining Programs); Mario Carello (DEP – Moshannon District Mining Office); Bruce Carl (DEP); Laura Edinger (DEP – Policy Office); Glenn Florence (DEP – Office Active and Abandoned Mine Programs); Josie Gaskey (Pennsylvania Aggregate and Concrete Association (PACA)); Rick Lamkie (DEP); Jeff McNelly (Anthracite Region Independent Power Producers’ Association (ARIPPA)); Paul Pocavich (DEP), Shuvonna Perry (DEP); Jan Repa (DEP - Fiscal), Dan Snowden (DEP – MRAB Liaison); Jason Staloski (PA House of Representatives); John Stefanko (DEP – Deputy Secretary – Office of Active and Abandoned Mine Operations); Chad Tate (Guest); Madison Tate (Guest); and Chris Yeakle (DEP).

Meeting Called to Order/Introductions

Acting in the absence of the Board Chair, Mr. Burns called the meeting to order at approximately 10:15 a.m. Board members and alternates introduced themselves, along with DEP personnel and visitors in the audience.

Adoption of Minutes

The Board voted to approve the January 22, 2015 meeting minutes.

Correspondence

There was no correspondence reported.

Committee Reports

- Policy Committee: No report.
- Regulation, Legislation and Technical Committee: No report.
- Reclamation Committee: No report.

Technical Guidance Update

Mr. Allen provided a status report on specific DEP guidance documents related to mining. The DEP guidance documents that are undergoing updates include the following:

- *Pre-Applications*
- *Engineering Manual*
- *Blaster's License Suspension (a matrix is being developed to better display the point system employed to determine the suspension for this type of license)*
- *Coal Ash*
- *General Permit Materials*
- *Civil Penalties*
- *Government-Financed Construction Contracts (GFCCs)*

National Pollutant Discharge Elimination System (NPDES) Permitting Update

Mr. Allen reported that as of March 31, 2015, 560 draft NPDES permits have been sent to the United States Environmental Protection Agency (US EPA) for review, with US EPA comments and/or objections on 332 of these draft permits. The US EPA concerns with the draft NPDES permits include (Note: Mr. Allen also mentioned that a cross-section of NPDES permit application results will be reviewed in order to determine how well the overall permit application process is working):

- *Checklist – this has been submitted to US EPA with the actual draft permit; the checklist alone will be submitted if more information is needed.*
- *Remining and Total Maximum Daily Loads (TMDLs).*
- *Sediment Pond Sampling on TMDLs.*
- *Effluent Characteristics and Detection Limits (approximately 10% of the US EPA issue letters cover this matter – it is likely that US EPA will ask DEP for more data in future NPDES permit applications, with proper detection limits).*

To date, the NPDES permitting process reveals the following:

- *A total of 303 NPDES permits have been issued with comments; 4 permits could be issued with comments, and 25 permits are pending with comments.*
- *A total of 188 NPDES permits have been issued without comments (including 97 “no comment” letters), while 29 permits could be issued without comments, and 11 permits are pending without comments (within a 30-day waiting period).*

Coal Mining Permit Applications (Historical Progress Update)

Mr. Allen reported that as of March 31, 2015, 1,447 coal mining permits have been disposed, with 182 of these permits remaining for action (thus, 1,265 coal mining permits have been approved). Among the coal mining permits disposed, there are 101 renewals and 6 annual bond reviews (the bond reviews are more than 2½ years old). Most of the coal mining permits are from the Pottsville District Mining Office (71 permits) and the California District Mining Office (106 permits), with 3 permits from the Cambria District Mining Office and none from the New Stanton, Moshannon and Knox District Mining Offices.

Alternative Bond System (ABS) Legacy Trust Account Update

Mr. Allen reported on the overall financial status of the ABS Legacy Trust Account (January 2007; January 2011; December 2014; and March 2015).

As of January 2007, there were 56 total agreements (below the 165 total agreements expected), with 31 bonds (worth \$84.1 million), 41 fully-funded trusts (worth \$38.6 million) and 11 partially-funded trusts (worth \$39 million).

As of January 2011, there were 107 total agreements (below the 165 total agreements expected), with 64 bonds (worth \$192 million), 30 fully-funded trusts (worth \$52.5 million – this was below the \$69.1 million expected) and 10 partially-funded trusts (worth \$18.5 million – this was below the \$52.8 million expected) (along with 3 additional ABS sites).

As of December 2014, there were 130 total agreements (below the 165 total agreements expected), with 74 bonds (worth \$225 million), 37 fully-funded trusts (worth \$71.2 million – this was below the \$75.5 million expected) and 16 partially-funded trusts (worth \$60.2 million – this was below the \$124.3 million expected) (along with 3 additional ABS sites).

Finally, as of March 2015, there were 133 total agreements (below the 165 total agreements expected), with 76 bonds (worth \$225 million), 39 fully-funded trusts (worth \$73 million – this was below the \$77 million expected) and 15 partially-funded trusts (worth \$60.6 million – this was below the \$127 million expected) (along with 3 additional ABS sites).

Land Reclamation Financial Guarantees (LRFG)

Mr. Allen reported on the status of LRFG, in terms of operators and permits. To date, there are 79 LRFG operators (up from 72 at the previous count), with an average per-operator amount of \$243,569 (the maximum collected is \$2.83 million). Additionally, there are 118 LRFG permits (up from 109 at the previous count) with an average per-permit value of \$182,427 (the maximum collected is \$2.1 million). The total value of LRFG permits, as of April 2015 is \$19.2 million (down from a total of \$19.8 million from the previous report).

Reclamation Fee Account Update

Mr. Allen provided a status report for the Reclamation Fee Account, in terms of monies collected in civil penalties and interest; other possible revenue sources for this account; and current balance and expected expenditures.

For the first quarter of 2015, a total of \$4,700 was collected in coal civil penalties. \$1,120.88 in interest was collected for the Reclamation Fee Account in January 2015. \$20,787.50 was collected in coal civil penalties in February 2015 and, \$626.67 collected in interest. For March 2015, \$8,641.67 was collected in coal civil penalties and \$0.00 collected in interest. For the 2015 calendar year, a total of \$105,089.67 (above the \$99,835.19) has been collected in coal civil penalties, with \$4,123.69 collected in interest.

Other potential revenue sources for the Reclamation Fee Account could include the LRFG interest (this totals \$15,268.01 to date) and LRFG premiums (these total \$201,010.24 to date).

As of April 15, 2015, the Reclamation Fee Account balance stands at \$3,322,727.63. FY 2014-2015 expenditures from this account total \$291,912.56 presently. Projected expenditures from this account are slated to be \$861,500. Additionally, anticipated spending from the fund for FY 2015-2016 is likely to

amount to \$920,000 – some of these monies may come from the Operations and Maintenance (O & M) Reclamation Fee. Among the activities considered for coverage under this account, there are seven design projects that total \$250,000; much of the funding for these projects will come from released bond monies.

A recommendation was made to arrange for a \$10 million set-aside for underwriting \$100 million in bonds. The Board voted unanimously to approve this recommendation.

Regulatory Update

Mr. Allen provided the Board with the current status of various regulatory packages:

- Acts 95 and 157(Land Reclamation Financial Guarantees and Bioenergy Crop Bonding): This regulatory package has been approved by the Environmental Quality Board (EQB) as a final rulemaking, at the April EQB meeting.
- Remining (Subchapters F and G): This will come before the EQB in May 2015 as a proposed rulemaking.
- Office of Surface Mining (OSM) Program Consistency: The main issues regarding this regulatory package include the surface mining definition; the 10-year, 24 hour storm matter; and whether timbering activities qualify as actual mining activities.
- Water Supply Replacement (Surface Mining of Coal (Chapter 87) and Anthracite Coal (Chapter 88)
- Chapters 210 and 2011 (Blaster's Licenses; Storage, Handling and Use of Explosives)

Coal Fees Revenue

Mr. Callaghan provided a report on coal fees. Regarding the disposition of monies received; these monies are deposited into the following mining-related funds:

- *Surface Mining Conservation and Reclamation Act (SMCRA)*
- *Coal Refuse*
- *Bituminous Mine Subsidence and Land Conservation Act (BMSLCA)*
- *Clean Water Fund (CWF) (NPDES Fees only)*

To date, revenue collected from coal fees for SMCRA, Coal Refuse and BMSLCA) has totaled \$54,417 for FY 2012-2013; \$166,110 for FY 2013-2014; and \$62,500 for FY 2014-2015 (through March 2015). CWF mining fee revenue has totaled \$247,800 for FY 2012-2013; \$523,296 for FY 2013-2014; and \$340,479 for FY 2014-2105 (through March 2015).

Due to a decline in coal mining permit applications, the average annual goal of \$400,000 in coal mining fees collected may not be reached during FY 2014-2015. Mr. Callaghan recommended that the Board's Regulation, Legislation and Technical Committee meet to discuss this matter.

Proposed Changes to Blasting Regulations (Chapters 210 and 211)

Mr. Lamkie reported on changes to Chapters 210 (Blaster's Licenses) and 211 (Storage, Handling and Use of Explosives). The proposed changes in Chapter 210 are related to definitions, compliance with relevant Federal regulations and license applications (increased fees).

The proposed changes in Chapter 211 are more substantive and are related to the following:

- *General Provisions (Definitions; Scope; Enforcement),*
- *Storage and Classification of Explosives (Magazine and License Fees; Standards for Classifying and Storing Explosives/Constructing, Maintaining and Siting Magazines; Decommissioning Magazines; Daily Summaries of Magazine Transactions),*
- *Permits (General Requirements; Blasting Activity Permits; Blasting Activity Permit-by-Rule; Fees);*
- *Records of Disposition of Explosives (Blast Reports);*
- *Transportation of Explosives (General Requirements);*
- *Blasting Activities (Prevention of Damage or Injury; Preparing the Blast; Pre-Blast Measures);*
- *Requirements for Monitoring (General Provisions; Monitoring Instruments);*
- *Blasting Activities near Utility Lines (General Provisions);*
- *Seismic Exploration (Scope; Permits; Blasting Records; General Requirements for Handling Explosives on a Seismic Exploration); and*
- *Civil Penalties (Scope; Inspection (General); Assessment of Penalty; System of Assessment for Penalties; Procedures for Assessment of Civil Penalties; Final Action; Final Assessment and Payment of Penalty).*

Bond Rate Guidelines Update

Mr. Carl reported on bonding rates for mining operations. He highlighted the bond rates for unit operations, measures and costs, which included the following:

- *Mobilization/Demobilization: The lesser of (a) 4% of Direct Costs or (b) \$40,000.00/Job*
- *Grading (< 500-foot push): \$0.95/Cubic Yard*
- *Grading (> 500-foot push/haul): \$1.20/Cubic Yard*
- *Selective Grading: \$1,250.00/Acre (initial data had this figure at \$1,700.00/Acre)*
- *Revegetation: \$1,900.00/Acre*
- *Tree Planting: \$0.75/Acre (initial data had this figure at \$2.00/Tree, with a \$300.00/Acre cost for hydroseeding)*
- *Ditch Excavation: \$7.00/Cubic Yard*
- *Jute Matting: \$4.00/Square Yard*
- *High-Velocity Erosion Control: \$3.80/Square Yard*
- *AASHTO #1 Stone: \$29.00/Ton*

- AASHO #57 Stone: \$30.00/Ton
- R3 Rock Lining: \$33/Square Yard
- R4 Rock Lining: \$25.00/Square Yard
- R5 Rock Lining: \$27.00/Square Yard
- Geotextile/Filter Fabric: \$2.80/Square Yard
- PVC Lining: \$12.00/Square Yard
- Subsurface Drain: \$19.00/Lineal Foot

Mr. Carl also reported on revegetation. The trends for different variables (for the period between 2010 and 2014) related to this topic were as follows:

- Revegetation (proper): From a low cost of \$1,335.25/Acre (2010) to a high cost of \$1,967.28/Acre (2012), with an average cost of \$1,765.85/Acre.
- Mulch: From a low cost of \$650.80/Acre (2010) to a high cost of \$840.01/Acre (2014), with an average cost of \$764.43/Acre.
- Seed Bed: From a low cost of \$227.73/Acre to a high cost of \$329.59/Acre, with an average cost of \$236.40/Acre.
- Seed: From a low cost of \$177.12/Acre to a high cost of \$304.43/Acre, with an average cost of \$223.48/Acre.

Lastly, Mr. Carl shared bond rates for additional operations, which included the following:

- Erosion and Sedimentation Control (Temporary Installation): 5% of Direct Costs for Site (via a Lump Sum)
- Pond Removal (Active Phase): \$3,800.00/Job
- Stage 3 Maintenance Bond Non-Cropland Areas (for Land Uses that do not Require Crop Yields): \$100.00/Acre (a slight increase from 2014)
- Stage 3 Maintenance Bond Cropland (not Row Crops), Pastureland or Lands Cut for Hay (occasionally): \$550.00/Acre
- Stage 3 Maintenance Bond Cropland Area (Row Crops, including Seed Costs): \$850.00/Acre
- Stage 3 Mobilization: \$2,500.00/Job
- Pond Removal (Stage 3): \$1.20/Cubic Yard (for pond embankment volumes; top soiling and revegetation costs for area disturbed are extra)
- Ditch Removal (Stage 3): \$0.75/Lineal Foot
- Equipment Tire Removal and Disposal: \$300.00/Tire
- Structure Demolition: Based on costs listed in the construction industry's latest annual cost publications (e.g., Means Building Construction Cost Data)

BAMR Status Report/Abandoned Mine Land (AML) Grant Funding

Mr. Bradley reported that the Federal AML grant from OSM for FY 2015 is \$44,018,000, which includes a loss of \$3,466,000 in funds, due to sequestration. Approximately \$9.1 million in Federal funds will be set aside monies for acid mine drainage (AMD) treatment. In the President's FY 2016 budget proposal there is a call for OSM to release \$1 billion from the AML fund over a 5-year period to allow States to fund AML and AMD projects that have the potential for local economic revitalization. Such benefits would be dependent upon the end use of properties in communities. This is part of the President's proposed Power+ Plan. BAMR staff has engaged with OSM, the National Association of Abandoned Mine Land Programs, and the Interstate Mining Compact Commission in reviewing and commenting on the proposal.

Mr. Bradley also reported on the completed and upcoming AML projects. For calendar year 2014, there were 216 projects completed, covering 841.3 acres and costing \$23,170,221 (of this amount, \$21,584,974 consisted of Title IV monies; \$23,770 consisted of Collected Bond monies; \$91,035 consisted of Bond Forfeiture and State Program monies; and \$1,413,878 consisted of Growing Greener monies).

Mr. Bradley mentioned that the AML projects currently under construction include 35 contracts, covering 1,220.4 acres and costing \$42,574,588. These monies consist of \$38,335,098 in Title IV funds; \$2,000,000 in AMD set-aside funds; \$12,309 in Collected Bond funds; \$32,754 in Bond Forfeiture and State Program funds; and \$2,298,591 in Growing Greener funds.

Finally, Mr. Bradley reported on future AML project awards, which total 82 potential contracts covering 2,976 acres and costing \$139,691,050. These monies consist of \$138,004,550 in Title IV funds; \$1,500,000 in AMD set-aside funds; \$90,500 in Collected Bond funds; and \$96,000 in Bond Forfeiture and State Program funds.

MRAB Annual Reports (2010-2011 and 2012-2013)

The MRAB Annual Reports for 2010-2011 and 2012-2013 were shared with the Board. No decision was made on the final disposition of these reports; however, approval from the Board may be forthcoming.

New Business

- *Big Run Unsuitable for Mining (UFM) Regulatory Package*: Mr. Callaghan announced that an effort to designate the Big Run and Willholm Run watersheds as UFM was underway.
- *Draft Reclamation and Remining Incentives Report*: Mr. Yeakle provided an overview of this report. He stressed the progress made in GFCC program, the Remining Operators Assistance Program (ROAP), the Financial Guarantees program; and the Bond Credits program. Copies of the report were shared with the Board (the same report was also provided to Board members and alternates in late February 2013). Mr. Yeakle requested that the Board provide comments on the report by May 30, 2015.
- *Travel for Board Members*: Ms. Perry informed the Board about the method for completing Travel Expense Vouchers.
- *July 2015 Board Field Trip*: Mr. Hughes and Mr. Feagley outlined some work that the Eastern Pennsylvania Coalition for Abandoned Mine Reclamation had done via partnerships with the Schuylkill Headwaters Association and the Schuylkill County Conservation District, regarding acid mine drainage treatment facilities that would be visited during the Board's July field trip and

meeting. The sites proposed include the following (all within Schuylkill County and, under the jurisdiction of the Pottsville District Mining Office, where the Board meeting will be held):

- Silver Creek
- Bell Colliery
- Mary D Borehole and Overflow
- Pine Forest

The Board meeting and field trip will take place on July 8, 2015 (field trip) and July 9, 2015 (meeting). Final arrangements for this are being made. Mr. Hughes also mentioned that the 17th Annual PA Abandoned Mine Reclamation Conference being held on June 25 and 26, 2015 at the Ramada Inn, State College. More information can be found on the Conference web site at www.treatminewater.com.

Open Time

Mr. Lutz mentioned two DEP Technical Guidance Documents (TGDs) related to Act 162 of 2014 (Amendments to the PA Clean Streams Law). These documents entail provisions for Riparian Buffers in general and, Riparian Forest Buffers. In both cases, the matters of demonstrating Equivalency and Offsetting were of interest, as such demonstrations could impact mining operations (there would be additional parameters to follow to ensure that erosion and sedimentation control measures are employed during mining operations). These DEP TGDs were then shared with the Board for review.

Adjournment/Next Meeting

The meeting adjourned at approximately 12:15 p.m. The Board will meet again on July 9, 2015, the day after its annual field trip to visit AMD treatment facilities (July 8, 2015).