

MINUTES
MINING AND RECLAMATION ADVISORY BOARD (BOARD)
April 6, 2017

VOTING MEMBERS OR ALTERNATES PRESENT:

Robert Burns (Vice Chairman)
Duane Feagley (PA Anthracite Council)
Tara L. Hazelwood (Alternate)
Jonathan Lutz (Alternate)
Katie Hetherington-Cunfer (CAC)
Rachel Gleason (Alternate)
Benjamin Wren (PA Senate)
Cynthia Carrow (Member; via conference call)
Mark Killar (Member)
Jack Chamberlin (Member)
Darrel Lewis (Alternate)

OTHER ATTENDEES

Bill Allen (DEP – Mining Programs)
Thomas Callaghan (DEP – Mining Programs)
Bruce Carl (DEP – Mining Programs)
Jennifer Gulden (DEP – Mining Programs)
Jack Rokavec (DEP – Bureau of Abandoned Mine Reclamation (BAMR))
Paul Pocavich (DEP – Mining Programs)
Eric Oliver (DEP – Mining Programs)
Daniel E. Snowden, D.Ed. (DEP – Mining Programs; Board Liaison)
Chris Yeakle (DEP – Active and Abandoned Mine Operations)
Richard Fox (PA House)
Dan Coleman (PA House)
Joe Iole (DEP – Bureau of Regulatory Counsel)
Abbey Cadden (DEP – Policy Office)
Laura Edinger (DEP – Policy Office)
Dr. Thomas G. Snowden (via conference call)

MEETING CALLED TO ORDER/INTRODUCTIONS

Mr. Burns called the meeting to order at approximately 10:00 a.m. Board members, DEP personnel and visitors introduced themselves.

APPROVAL OF MINUTES

The minutes were approved without changes.

CORRESPONDENCE

No correspondence was received by the Board since its last meeting.

COMMITTEE REPORTS

An Annual Report Subcommittee was formed within the Policy Committee, to approve several years of past MRAB annual reports. Darrel Lewis, Rachel Gleason, Duane Feagley, and Tara Hazelwood agreed to serve. The meeting dates will be announced once determined.

The technical committee met on Thursday, March 30, 2017. There was discussion regarding the OSM consistency regulatory rule. The changes from the draft version available to the public were primarily minor administrative changes. There was also extended discussion regarding the definition of “surface mining” as it differed between Pennsylvania state law and Federal rule.

PRESENTATIONS

Coal Mining Program Updates

Mr. Allen provided updates to the Board regarding the coal mining program:

- Non-Regulatory Agenda: The Engineering Manual revision is currently in process.
- National Pollutant Discharge Elimination System (NPDES) Permitting: Mr. Allen noted that there was continued interest from the EPA, regarding NPDES permits.
- Historical Application Progress and the Permit Decision Guarantee (PDG): Mr. Allen provided updates on the following:
 - Number of coal-related permit applications disposed, along with those remaining for action and their specific District Mining Office locations.
 - On-time percentages under the PDG program for District Mining Offices.
- Trust Agreements/Bond Status: Mr. Allen provided details on a variety of items regarding this topic:
 - Number of total agreements (between December 2015 and February 2017), total (i.e., bonds, fully-funded trusts, partially-funded trusts (including Alternative Bond System (ABS) sites).
 - Values of the agreements (between December 2015 and February 2017.)
- Land Reclamation Financial Guarantees (LRFG): The potential benefits of raising the LRFG limit were discussed by Mr. Allen and the Board. The Board also asked for further information regarding new permits and LRFGs.
- Civil Penalties: The use of \$2.4 million deposited into the Civil Penalties account was discussed by the board. While \$500,000.00 is obligated to be transferred to the Rec Fee account, Mr. Allen sought the board’s recommendation for the remainder. The Board discussed the idea of moving the \$500,000.00 to the O & M Trust account, with a possible transfer to the ABS Legacy account in the future.

- Reclamation Fee Operations and Maintenance (O & M) Trust Accounts: The board was shown the current information of the Reclamation Fee Account status. Mr. Callaghan and Mr. Allen discussed the O & M Trust Accounts in further detail later in the meeting.
- Regulatory Agenda: Mr. Allen mentioned developments with the following items:
 - OSM Program Consistency Committee (further information below).
 - Water Supply Replacement Regulations (25 PA Code, Chapters 87 and 88).
 - Blasting and Explosives Regulations (25 PA Code, Chapters 210 and 211) have been routed for Final EQB.
- Application Fee Revenues: Mr. Allen mentioned additional revenues from the following funds (between FY 2012-2013 and FY 2016-2017 (through February)):
 - Surface Mining Conservation and Reclamation (SMCRA) Fund.
 - Clean Water Fund (CWF).

Bond Rate Guidelines

Mr. Carl stated that the 2017 reclamation bond rate guidelines were published in the PA Bulletin on March 11, 2017 and went into effect on April 1, 2017. Mr. Carl reported on reclamation bond rate guidelines, in terms of the 2017 calendar year costs for grading, revegetation, seed bed preparation and seed.

- Grading (2017):
 - One reclamation project covering 419,600 total cubic yards for grading, with costs ranging between \$0.65/cubic yard and \$1.00/cubic yard.
 - The low-bid average grading costs ranged between \$0.74/cubic yard and \$0.81/cubic yard, with a weighted average cost of \$0.75/cubic yard (like 2016).
 - The overall weighted average grading cost between 2015 and 2017 was \$0.87/cubic yard (projects at 500 feet or less).
- Mulch, Seed Bed Preparation and Seed (2017):
 - Mulch Costs: \$880/acre.
 - Seed Bed Preparation Costs: \$171/acre.
 - Seed Costs: \$296.69/acre.

BAMR Status Report/AML Grant Funding Status

Mr. Rokavec updated the Board on the AML projects completed by the Bureau of Abandoned Mine Reclamation in calendar years 2016-2017; the AML projects that are currently being constructed/reclaimed; and the future projects the Bureau is advancing through the design phase. A complete list of the projects was provided in the Board's meeting materials.

OSM Program Consistency Rule

This topic served as a continuation of the discussion from meeting of the Board's Regulation, Legislation and Technical (RLT) Committee, which occurred on March 30, 2017. The main issues discussed included the following:

- Defining the Term "Surface Mining Activities": The matter of whether timbering (policy on this recommended) or other surface activities that do not involve actual extraction of coal qualify as "surface mining" was discussed – the options: 1) keeping the existing language in the State regulations; and 2) incorporation of the Federal regulations by reference only or, both eliminating the existing language and incorporating the Federal regulation by reference.
- Assessment of Penalties: The Department suggested that in lieu of having an actual dollar figure in the State regulation a cross-reference to the Federal regulation section be inserted.
- Remining Financial Guarantees: A description of the amounts for this program (on a permit-by-permit basis) was recommended.
- Effluent Limits: There was discussion about attempting to deal with the in-stream manganese requirement through a revision to Chapter 89.

Regarding the definition of "surface mining activities," the Board voted to recommend the adoption of the Federal language, with the understanding that further guidance will be forthcoming to clarify what activities qualify as surface mining activities. The board also recommended that the Department proceed with the proposed rulemaking process.

NEW BUSINESS

2016 Reclamation and Remining Report

Mr. Oliver mentioned that the 2016 Reclamation and Remining Report had been sent to the MRAB members for any comments by the members. These comments are due by May 23, 2017.

July Field Trip: Knox DMO

Mr. Yeakle provided an overview of the field trip for the July MRAB meeting. Knox DMO will host the field trip, stopping at three acid mine drainage treatment sites.

Adjournment/Next Meeting

The Board adjourned its meeting at approximately 12:00 p.m. The Board will meet again on July 20, 2017, at the DEP Knox District Mining Office, White Memorial Building P.O. Box 669 Knox, PA 16232-0669.