

MINING AND RECLAMATION ADVISORY BOARD (BOARD)

**Thursday, October 25, 2012
Harrisburg, PA
Rachel Carson State Office Building
Room 105**

Voting Members/Alternates: Andy McAllister (Alternate), Jack Chamberlin (Member), Duane Feagley (Alternate), Josie Gaskey (Alternate), Marjorie Hughes (Alternate), Michael Kishbaugh (Alternate), David Osikowicz (Member), Tara Smith (Alternate)

Other Attendees: Molly Adams (DEP), Bill Allen (DEP), Robert Altenburg (DEP), Hayley Book (DEP), Brian Bradley (DEP), Tom Callaghan (DEP), Bruce Carl (DEP), Eric Cavazza (DEP), Jim Charowsky (DEP), Sarah Clark (House Environmental Resources & Energy Committee), George Ellis (Alternate, PA Coal Association), A. J. Jenkins (DEP), Tom Mainzer (CAC), Jeff McNelly (Anthracite Region Independent Power Producers' Association, ARIPPA), Shuvonna Perry (DEP), Paul Pocavich (DEP), Dan Snowden (PennDOT), Michelle Tate (DEP)

Meeting Called to Order

Mr. Osikowicz served as chair for this meeting and called the meeting to order at approximately 10:00 AM. He welcomed everyone and asked that they introduce themselves.

Title IV Funding/Baucus Amendment

Due to a scheduling conflict, Mr. Cavazza gave his presentation first. He gave an overview of the history of the Surface Transportation Bill (H.R. 4348). Included in the bill was a provision (the Baucus Amendment), which amends Section 411 of the Surface Mining Control and Reclamation Act (SMCRA); the amendment impacts Abandoned Mine Lands (AML) grants to States. This provision could result in a reduction of grants to all States receiving AML funds; here Pennsylvania could lose over \$200 million to its AML and Acid Mine Drainage (AMD) Set-Aside Programs over the next ten years. It was reported that this was not the intent of Congress, so a technical correction was included in the Continuing Appropriations Resolution that was signed into law by the President on September 28, 2012. As it stands now, it is believed that there will be no reduction in AML fund grants to Pennsylvania.

Another uncertainty for Title IV funding is the potential impact in the event that the Federal government fails to pass the budget, and the funding goes into sequestration.

Adoption of Minutes

Minutes from the Board meeting on July 12, 2012 were presented and approved without comment.

Correspondence

Letters of appreciation from the Board were sent to ARIPPA and the Clover Plant Project for organizing a facility tour for the Board.

Committee Reports

Policy

No Report

Reclamation

Mr. Feagley was appointed Chair of this committee.

Regulation, Legislation and Technical

The committee met with DEP concerning proposed regulation changes. House Bill 1813 was signed into law by the governor, necessitating rulemaking by DEP.

Permit Coordination Policy

An overview was given about DEP's revisions to policies regarding the permitting process. Planned revisions to the permitting procedure were published for public comment in the *Pennsylvania Bulletin* in September. The Office of Program Integration compiled a 150-page comment and response document and plans to go live with the new procedures in November.

The changes seek increased expectation in quality for both applicant and agency. Incomplete and technically inadequate applications will be denied. There will also be a new hierarchy for reviewing permits.

Concerns were raised about the several hundred permits already in the system and the time involved in processing them. The Board was concerned that permits might be returned to applicants due to time constraints. It was explained that permits already "in house" will be handled under the former system. Work load assessments are being done to assess staffing concerns. At the time of the meeting, it was believed that DEP would be able to adequately handle the workload.

Regulatory Update

The Coal Fee Package is ready to be finalized. The package was approved by the Independent Regulatory Review Commission (IRRC) in September and, it will be effective upon publication in the *Pennsylvania Bulletin*.

There was further information given about the committee meeting.

NPDES Permitting

DEP is working with EPA in issuing permits. DEP is working on a guidance document to address the NPDES guidelines. DEP is also working with EPA to formulate a permit template.

DEP was asked if the current procedure was going to end or if this was going to continue indefinitely. DEP has some hope that they have done enough to satisfy EPA's concerns and that the EPA will relax the current level of oversight.

ABS Legacy Trust Account

There are currently 114 trust agreements in place. The total number of trust agreements required under the full-cost bonding program is 132. There has been \$18,000 in civil penalties so far in this fiscal year.

The Reclamation Fee Report, along with comments, was presented to the Board.

Biofuels Bonding Program

Act 95 was enacted and provides allowances for bonding for remaining operations that are planting bioenergy crops. Funding for this also includes the \$7 million in the conversion assistance fund. DEP is putting together a draft guidance document pertaining to the subject.

Bond Rate Guidelines

There were five more reclamation projects awarded, with another two possible before the end of the year. Along with past projects, these new projects will be used to calculate future bonding rates.

BAMR Status Report

In 2011, 199 AML projects were completed at a cost of \$13.4 million. For 2012 so far, 43 projects were completed at a cost of \$8.7 million. At the time of the meeting, there were 34 projects under construction at a cost of \$48.7 million. 23 contracts have been awarded at \$16.3 million. 139 projects are currently under design at \$148 million.

New Business

The Board discussed possible dates for its meetings during 2013. The dates selected were January 10, April 25, July 11, and October 24.

Adjourn

With no further questions or comments, The Chair called for the meeting to be adjourned.