

MINING AND RECLAMATION ADVISORY BOARD (BOARD)

Thursday, April 25, 2013
Harrisburg, PA

Rachel Carson State Office Building
Conference Room 105

Voting Members/Alternates: Bob Burns (Member), Jack Chamberlin (Member), Terry Dayton (Member), Duane Feagley (Alternate), Josie Gaskey (Alternate), Dave Hess (Member), Marjorie Hughes (Alternate), Mark Killar (Alternate), Darrel Lewis (Alternate), Joyce Martin (Alternate), Andy McAllister (Alternate), Tara Smith (Alternate)

Other Attendees: Bill Allen (DEP), Robert Altenburg (DEP), Brian Bradley (DEP), Tom Callaghan (DEP), Bruce Carl (DEP), Joel Koricich (DEP – California DMO), Jeff McNelly (ARIPPA), Paul Pocavich (DEP), Shuvonna Perry (DEP), Dan Snowden (DEP – MRAB Liaison), Chris Yeakle (DEP – Knox DMO)

Meeting Called to Order/Introductions

Mr. Burns served as Chair for this meeting (in David Osikowicz's absence) and called the meeting to order at approximately 10:00 A.M. He welcomed all attendees and asked that they introduce themselves.

Adoption of Minutes

The Board voted to approve the January 10th, 2013 meeting minutes.

Correspondence

None.

Committee Reports

- *Policy Committee:* No report.
- *Regulation, Legislation and Technical Committee:* Mr. Chamberlin mentioned that this Committee met on January 22nd, 2013. While some minor topics were discussed during the meeting (i.e., the Small Operator Assistance Program (SOAP) Semi-Annual Report; the Alternative Bond System (ABS) Legacy Sites), the main topic of discussion was the implementation of the relevant Act 157 provisions (i.e., premium amount for the Financial Guarantees (FG) program; transfer of funds from the Land Reclamation Financial Guarantee Account to the Re-mining Financial Assurance Fund (RFA)/Reclamation Fee Operation and Maintenance (RF O & M) Trust Account; levels of detail for operator and site eligibility; underwriting limits for coal mining programs, permits and operators; and addressing the matter of LRFG account as the sole source of funds for the RF O & M program. The status of implementing these Act 157 provisions was mentioned Mr. Allen's report (see "Regulatory Packages Update" section below).

- **Reclamation:** Mr. Feagley reported that this Committee met just prior to the main Board meeting. The main subject of the meeting was Pennsylvania's Re-mining Incentives, and it included discussions on funding sources (e.g., the Environmental Enhancement Fund), possible re-mining avenues that exist (i.e., Re-mining Financial Guarantees (RFG); Re-mining Operator Assistance Program (ROAP – this program does not have any new funding, but could receive monies through other programs); Government Financed Reclamation Contracts (GFCC); and Bond Credits). A draft re-mining survey on the aforementioned incentives was also shared during the meeting and, will be the subject of another upcoming Committee meeting and likely, an agenda item for an upcoming full Board meeting.

Regulatory Packages Update

Mr. Allen first reported on matters regarding water supply replacement (in 25 PA Code, Chapters 87 and 88), re-mining (Subchapters F and G), consistency with programs of the Federal Office of Surface Mining (OSM); and Acts 95 and 157 (the last point was one of significant concern for the Board). With Act 157 implementation, accounts have been established with the transfer of \$500,000 from the LRFG account to the RFG account; limits were also increased to \$510,000.00/operator and \$170,000.00/permit. Also, the DEP Secretary granted approval to develop a rulemaking package for developing regulations from Act 157. Lastly, as of March 2013, 211 RFGs have been developed, with 166 permits and 99 mining companies participating; the total value of these RFGs is \$10,729,489.67.

National Pollutant Discharge Elimination System (NPDES) Permitting Guidelines Update

Mr. Allen continued by stating that as of April 15th, 2013, 330 draft NPDES permits have been sent to the U. S. Environmental Protection Agency (US EPA); this agency provided comments and/or objections on 194 of these permits (about ¼ of these comments were non-issues). The NPDES Permit Guidance Document was published for comment on November 24th, 2012, and a template for the Permit has been developed. The Board expressed some interest in seeing the guidance document and permit template.

Mr. Allen shared some further statistics on the NPDES permits. Again, as of April 15th, 2013, 144 such permits have been issued with comments, while 84 such permits have been issued with no comments. Additionally, there are 24 permits that could be issued with comments and 32 permits that could be issued with no comments. Lastly, there are 26 permits pending with comments and 20 permits pending, per a 30-day wait. Among the permits issued without comments, there are 56 “no comment” letters.

ABS Legacy Trust Account Update

Mr. Allen reported on the status of the ABS Legacy Trust Account in terms of the following: *1) Bond Status (as of April 2013, 113 of 132 agreements have been completed, along with 63 bonds, 32 fully-funded trusts and 15 partially funded trusts (including 3 ABS)); 2) Financial Summary (as of April 2013, \$197.8 million in bonds have been collected, along with \$58.9 million in fully-funded trusts and \$35.6 million in partially funded trusts); 3) Reclamation Fee Account Revenue (to date, \$198,890.00 in coal civil penalties has been collected, with \$6,811.47 in interest accumulated); and 4) ABS Legacy Permits (two such permits are being added, with costs currently under evaluation and, no bonds required); one of these permits is for Purco Coal, Inc. and the other is for the Clyde Mine, both in the Greensburg Mining District.*

Permit Decision Guarantee (PDG) Update

Mr. Allen reported that the Standard Operating Procedure (SOP) for the PDG has been posted, along with its companion checklist. The PDG guidance document is currently under revision. Also, the first quarterly report on the PDG was issued on February 14th, 2013; here, the DEP Bureau of Mining Programs (BMP) met the majority of the PDG timeframes (most of the permits issued during that quarter were related to blasting). Also, as of April 15th, 2013, progress has been made on the coal permit backlog. Here, 787 permit applications have been disposed, with 843 such applications still remaining for action. The permit application queue is slated for completion by the end of July 2013.

Bond Rate Guidelines Update

Mr. Carl provided some details about standard bond rate guidelines as relates to various mining and reclamation activities. The first part of the presentation covered unit costs for different operations (i.e., mobilization/demobilization; standard grading; high velocity erosion control; maintenance bonds for cropland and non-cropland areas; erosion and sedimentation control; pond removal, ditch removal; equipment tire removal and disposal; structure demolition); sealing for bituminous underground mine drift and slope openings, mine shaft openings and sealing boreholes. The second part of the presentation covered AML reclamation grading costs; based on cubic yards, these range from \$.85/acre to \$2.00/acre.

BAMR Status Report

Mr. Bradley provided a summary of BAMR's completed, active, and future construction projects and awards for the same. In the 2012 calendar year, there were 59 projects that reclaimed 722.3 acres, at a cost of \$14,773,896. In the 2013 calendar year, one project has been completed to date, reclaiming .2 acre at a cost of \$135,263.00. For future completions, there are 40 contracts to reclaim 1,161.6 acres, at a cost of \$42,560,817.00. Finally, for future awards, there are 136 contracts to reclaim 4,626.8 acres, at a cost of \$151,107,360.00.

AML Grant Funding Status

Mr. Bradley continued by stating that the 2013 AML Grant round of funding was currently delayed due to the fiscal cliff and, because of this, that the period for the 2012 AML Grant round was extended for one quarter. Pennsylvania's share of these AML Grant monies is \$65 million. Of this amount, \$27 million has been set aside for construction contracts, and \$15.1 million for AMD work. Additionally, \$6.5 million (10% of the total) was withheld by the (OSM), due to the fiscal cliff situation. However, once the fiscal cliff matter is resolved, Pennsylvania will get another \$3.2 to \$3.3 million for construction, and an additional \$800,000.00 for AMD work.

Reclamation and Re-mining Incentives Report (Draft) (2012)

Mr. Yeakle shared this draft report with the Board. He mentioned that since the inception of the reclamation and re-mining incentives program (January 1991), Pennsylvania coal mine operators have reclaimed over 6,000 abandoned mine land acres, valued at \$37.3 million. Additionally, there were 243 GFCCs issued between January 1991 and December 2012, with a total reclamation value exceeding \$14.8 million. Further, there were 60 re-mining permits issued under the ROAP between August 1996 and December 2012, at a cost of \$913,284.00. This ROAP effort resulted in 45 projects at a cost of \$800,971.00; two of these ROAP projects became bond forfeitures, while 2 other such projects had their

ROAP funds reimbursed to DEP and, the other 41 projects are set to reclaim 1,843.8 acres of abandoned mine lands, with a reclamation value of \$11.1 million. The last items mentioned involved the Bond Credits program (six projects completed, reclaiming 50.1 acres of abandoned mine lands, with a reclamation value of \$553,239.00) and the FG program (with 684 mining permit increments bonded, reclaiming 3,513.1 acres of abandoned mine lands, saving Pennsylvania about \$21.1 million. Mr. Yeakle encouraged the Board to review the report and provide any comments, which would be implemented into the final version of the document.

Field Trip for July

Mr. Koricich gave a presentation about the Rosebud Mining Company's St. Michael AMD Water Treatment Project in Cambria County – this is the project that the Board will visit during its field trip in July. Aspects covered included the watershed affected by the project (Little Conemaugh River); existing AMD discharge targeted for elimination (Maryland No. 1 Mine Shaft – active since December 1963, with an average flow rate of 2,067 gallons per minute, and a loading rate of 31,141 AMD per day to the Little Conemaugh River); the project scope (simultaneous dewatering of the main St. Michael AMD pool and mining of the lower Kittanning Coal seam, all to eliminate the AMD and lower the overall levels of the pool); comparisons of iron loading from AMD that would occur with and without the project (over 20 years around 98% of these loadings would be reduced per the project); and some visuals (maps and photos) of the St. Michael AMD Treatment Plant.

Special Announcement

Mr. McAllister (speaking in the absence of Robert Hughes) mentioned that Pennsylvania's Annual Conference on Abandoned Mine Reclamation would take place on August 8th – 10th, at the Ramada Inn in State College. Mailing cards for the event were distributed to the group and Mr. McAllister recommended that interested persons should visit the event web site (<http://2013.treatminewater.com>) to learn more about and/or register for the event.

New Business

None.

Open Time

Dr. Snowden mentioned that since the previous Board meeting (January 10th, 2013), several Board members had been reappointed. The list included representatives from the Citizens Advisory Council (CAC) – Burt Waite (appointed to another 2-year term) and Dave Hess (newly appointed for an initial 2-year term); PA House members Deb Kula and Jeff Pyle (both reappointed to 2-year terms); and PA Senate members Tim Solobay and Don White (both reappointed to 2-year terms).

Adjourn

With no further questions or comments, the Chair called for the meeting to be adjourned at around 12:00 noon.