

MINING AND RECLAMATION ADVISORY BOARD (BOARD)

**Thursday, July 17, 2014
Moshannon District Mining Office
Philipsburg, PA**

Main Conference Room

Voting Members/Alternates: Duane Feagley (Alternate), Darrel Lewis (Alternate), Dave Osikowicz (Member – Board Chair), and Michele Tate (Alternate)

Other Attendees: Bill Allen (DEP), Bruce Carl (DEP), Dan Snowden (DEP/Board Liaison), Chris Yeakle (DEP) and Ken Yingling (LCT Energy)

Meeting Called to Order/Introductions

Mr. Osikowicz called the meeting to order at approximately 9:10 a.m. He welcomed all attendees and asked that they introduce themselves.

Adoption of Minutes

In the absence of a quorum, the Board declined to adopt the minutes of its April 24th, 2014 and decided to do so at its October 23rd, 2014 meeting.

Correspondence

It was reported that the Board sent a letter in support of SB 411 (regarding the use of mine-influenced water (MIW) in oil and gas well development and, for other industrial uses) to Gene Yaw, Chairperson of the Senate Environmental Resources and Energy Committee, on May 5th, 2014. However, since SB 411 never made it out of Committee, this legislation will have to be reintroduced during the 2014-2015 legislative session. It is likely that the new legislation will be available for the Board to review and possibly support.

Feedback on the Field Trip to View Selected Acid Mine Drainage (AMD) Treatment Facilities in the Moshannon District Mining Office Field Area

Board members were provided the opportunity to provide feedback on the field trip held on July 16th. The Moshannon District Mining Office coordinated visits to several AMD treatment facilities in Centre and Clearfield Counties, including: 1) *Pine Glen Active Treatment System (Burnside Township, Centre County)*; 2) *Avery Coal Company – Dugan #2 and #4 (Power Lake) Passive Treatment Systems (Rush Township, Centre County)*; and 3) *Avery Coal Company – Victoria/Diemling Passive Treatment System*. Overall, the Board members had positive responses for this field trip, and all were delighted to have taken part in it. For future field trips, Mr. Osikowicz recommended that more Board members attend these events (as schedules permit) so that they may also take advantage of these opportunities to visit AMD treatment sites and related areas. It should be noted that 2 representatives from the Federal Office of Surface Mining (OSM) were present during the field visit to the AMD treatment facilities.

Committee Reports

- **Policy Committee:** No report.
- **Regulation, Legislation and Technical Committee:** Standing in for Jack Chamberlin (the Chairperson of this Committee), Mr. Osikowicz reported that this committee had been involved with the following matters:
 - *Proposed mining regulations for Subchapters F and G: The Committee met with Mr. Allen on April 24th, 2014 to discuss some minor wording changes in the proposed regulations. Mr. Allen sent a newly revised set of draft regulations to the Committee Chairperson (Mr. Chamberlin) for review by the entire Committee, prior to being presented to the full Board. Also, the Committee would like to meet with Mr. Allen on the revised set of draft regulations for approval and/or revisions; once a date is set for this meeting, Dr. Snowden will be asked to send out a notice to the Committee and any Board members who would be interested in attending.*
 - *Consistency with Federal Office of Surface Mining (OSM): This involves revisions to specific sets of regulations that are similar/parallel to those of OSM.*
 - *Proposed regulations for Water Supply Replacement: This involves revisions to certain sections of Chapters 87 and 88.*
 - *Legacy Site Issues: This matter is related to whether some sites should be evaluated more closely, in order to determine whether they actually need treatment.*
- **Reclamation Committee:** No report.

Permit Decision Guarantee (PDG) Update

Mr. Allen began this first part of his presentation by providing updates on guidance documents. He reported that the PDG pre-applications document (563-2112-214) was under revision to cover matters regarding industrial mineral mining permit applications, as well as those regarding coal mining permit applications. Mr. Allen then reported that the PDG Engineering Manual was also under revision, with a completion date of August 2014. Lastly, as part of this presentation, Mr. Allen provided updates on the Blasters' License Suspension document (revisions were completed on May 14th, 2014, with between 15 and 20 comments, mainly related to the length of suspensions – the matrix used for this was said to be unsatisfactory and, should be replaced with a list of factors that determine how long suspensions will last for blasting licensees) and, the revision of 99 other documents to reflect the current name of the Bureau (i.e., “Mining Programs,” instead of “Mining and Reclamation”).

National Pollutant Discharge Elimination System (NPDES) Permitting Guidelines Update

Mr. Allen continued by reporting that as of June 30th, 2014, 482 draft NPDES permits have been sent to the United States Environmental Protection Agency (US EPA). The US EPA commented on or objected to 296 of these permits – the issues are related to: 1) *the permit application form itself;* 2) *Stormwater and Total Maximum Daily Loads (TMDLs) (there is a recommendation that monitoring data be compared to TMDL limits, in order to determine overall waste allocations);* and 3) *Limits at criteria.*

Mr. Allen then presented the NPDES permitting statistics. These are as follows: 1) *For those NPDES permits submitted with US EPA comments - there are 260 permits that will be issued, 25 permits that could be issued and, 11 permits that are pending;* and 2) *For those NPDES permits submitted without US EPA comments (including 90 “No Comment” letters) – there are 152 permits that will be issued, 26 permits that could be issued, and 8 permits that are pending (with a 30-day waiting period).*

Alternative Bond Systems (ABS) Legacy Trust Account Update

Mr. Allen then provided a report on the ABS Legacy Trust Account, covering January 2007; January 2009; January 2011; and June 2014.

- **January 2007:** There were 56 total agreements: 31 bonds, 14 fully-funded trusts, and 11 partially-funded trusts.
- **January 2009:** There were 96 total agreements: 56 bonds, 31 fully-funded trusts, and 6 partially-funded trusts (along with 3 ABS agreements).
- **January 2011:** There were 107 total agreements: 64 bonds, 30 fully-funded trusts and 10 partially-funded trusts (along with 3 ABS agreements).
- **June 2014:** There were 128 total agreements: 74 bonds, 36 fully-funded trusts, and 15 partially-funded trusts (along with 3 ABS agreements).

Mr. Allen then moved to the Financial Summaries for the ABS Legacy Trust Account, all for the same aforementioned time periods:

- **January 2007:** There were amounts of \$84.1 million in bonds, \$38.6 million in fully-funded trusts, and \$39 million in partially-funded trusts.
- **January 2009:** There were amounts of \$118.4 million in bonds, \$57.6 million in fully-funded trusts, and \$36.8 million in partially-funded trusts.
- **January 2011:** There were amounts of \$192 million in bonds, \$52.5 million in fully-funded trusts (down from \$69.1 million), and \$18.5 million in partially-funded trusts (down from \$52.8 million).
- **June 2014:** There were amounts of \$215.5 million in bonds, \$69.1 million in fully-funded trusts (down from \$78.5 million), and \$52.1 million in partially-funded trusts (down from \$109 million).

Reclamation Fee Account Update

Mr. Allen continued by providing details regarding the Reclamation Fee Account. He began with the revenues for this account for the April-June 2014 reporting period, as well as revenues for the entire fiscal year (FY) 2013-2014:

- **April 2014:** Old escrow accounts were closed out, resulting in a figure of - \$1,276.08 collected in civil penalties, with \$509.55 earned in interest.

- **May 2014:** There was an amount of \$9,435.00 collected in civil penalties, with \$389.27 earned in interest.
- **June 2014:** There was an amount of \$7,202.00 collected in civil penalties, with \$419.99 earned in interest.
- **Fiscal Year to Date (FYTD) (FY 2013-2014):** An amount of \$314,368.65 was collected (note: 5% of this amount, or, \$15,718.43, was transferred to the Environmental Education (EE) Fund, resulting in an amount of \$298,650.22 collected overall), with \$6,187.42 earned in interest.

Regulatory Update

Mr. Allen reported that the regulatory package for Acts 95 and 157 appeared on the agenda for the July 15th, 2014 Environmental Quality Board (EQB) meeting, as a proposed rulemaking package. He also updated the Board on matters regarding the Remining regulations ((Subchapters F and G) – the RLT Committee is making headway on this); OSM program consistency; Water Supply Replacement; and the Blasting regulations (Chapter 211) – this is a matter about making revisions to these regulations in order to account for the use of explosives in seismic blasting for natural gas exploration and general maintenance.

Reclamation Fee Operations and Maintenance (O & M) Account Update

Mr. Allen then moved to a discussion on the Reclamation Fee O & M Account. He began with the overall financial picture for the account. As of June 30th, 2014, the balance in the account stood at \$3,311,866.28 (this is within the \$3 million target for this account), with expenses of \$499,122.48 and Land Reclamation Financial Guarantees (LRFG) interest of \$21,961.74 in FY 2013-2014 (up from \$10,193.82 in FY 2012-2013) – these monies are available for transfer to the O & M Fund. Also, the funds available from the LRFG include \$71,988.70 from FY 2012-2103 and, \$276,563.94 from FY 2013-2014 (all premium payments – the FY 2013-2014 amount will be transferred only if it is necessary to do so).

From here, Mr. Allen discussed Reclamation Fee O & M projects. For FY 2013-2014, there were 30 individual permits under contract (some of these involve work with non-profit organizations), and 10 permits under grants. For FY 2014-2015 to date, there is an amount of \$224,500.00 authorized for grants and, an amount of \$850,000.00 for contracts (this amount includes \$250,000.00 for contingencies).

Lastly, Mr. Allen provided an overall estimate for the Reclamation Fee O & M Account for FY 2013-2014, to serve as the account's starting point for FY 2014-2014. The current balance stands at \$3,311,866.28 (as stated before). Spending on contracts accounted for \$600,000.00, with \$224,500.00 in grants; this left an amount of \$2,487,366.28. To continue, income for the account during FY 2013-2014 was \$326,000.00 and, penalties collected during this period amounted to \$298,650.22. Adding the income and penalties collected to the account balance left after contracts and grants spending (i.e., \$2,487,366.28), the Reclamation Fee O & M Account will have an amount of \$3,112,016.50 to begin FY 2014-2015.

Bond Rate Guidelines Update

Mr. Carl provided details regarding the costs for the reclamation of Abandoned Mine Lands (AML). In terms of grading for 2014 calendar year (based on the 3 lowest project bids), the costs ranged from \$.85 per acre to \$1.13 per acre, with average grading costs between \$0.87 and \$0.89 per acre.

Mr. Carl also discussed grading costs over the period covering 2012 through 2014, for acres less than 500 acres and, for areas greater than 500 acres. For the 2012, 2013 and 2014 calendar years, total grading costs for areas less than 500 acres ranged from \$.40 per cubic yard to \$1.00 per cubic yard, with a 3-year average cost of \$0.94 per cubic yard. For the 2012, 2013, and 2014 calendar years, total grading costs for areas greater than 500 acres ranged from \$1.01 per cubic yard to \$6.00 per cubic yard, with a 3-year average cost of \$1.31 per cubic yard.

Mr. Carl then mentioned AML revegetation cost trends between 2004 and 2014. Here, the costs per acre ranged from a low of \$1,259.00 per acre (2004) to a high of \$1,967.00 per acre (2012); the cost per acre for 2014 stood at \$1,775.00. The overall cost trends have been rising, for the most part (mainly due to higher costs for lime, mulch, seed and fertilizer).

Lastly, Mr. Carl covered matters regarding bond rate data for the 2012-2014 period, with projections for 2015. All general costs and weighted averages for grading, mulching, seeding, seed bed preparations, tree planting and revegetation have all increased from 2012-2014, and are likely to increase further in 2015. This is due to increased costs for lime, fertilizer, mulch, and seed.

New Business

It was reported that Terry Dayton (Citizens Advisory Council (CAC)) was reappointed to the Board on June 17th, 2014. Also, it was reported that the reappointments for Bobby Burns (Keystone Anthracite) and Mark Snyder (State Industries, Inc.) were pending.

Open Time

No comments were received from the meeting attendees.

Adjourn

With no further questions or comments, Mr. Osikowicz called for the meeting to be adjourned, which occurred at around 10:30 a.m.