

**MINING AND RECLAMATION ADVISORY BOARD**  
**Thursday, July 9, 2015**  
**Pottsville District Mining Office**  
**Pottsville, PA**

**Main Conference Room**

**Voting Members/Alternates:** Robert Burns (Member), Jack Chamberlin (Member), Duane Feagley (Alternate), Robert Hughes (Member), Rachel Hursh (Alternate), Darrel Lewis (Alternate), and Ben Wren (Alternate)

**Other Attendees:** Bill Allen (DEP), Mike Bodner (Andregic Bodner Environmental Consulting, LLC), Bruce Carl (DEP), Josie Gaskey (PA Aggregates and Concrete Association (PACA)), Haley Giannone (Eastern PA Coalition for Abandoned Mine Reclamation (EPCAMR)), Laura Henry (DEP – Policy Office), Dan Koury (DEP – Pottsville District Mining Office), Mallory Pinkowski (EPCAMR), Mike Plazek (DEP), and Dan Snowden (DEP – MRAB Liaison)

**Meeting Called to Order/Introductions**

Acting in the absence of the Board Chair, Mr. Burns called the meeting to order at approximately 9:05 a.m. Board members introduced themselves, along with DEP personnel and visitors in the audience.

**Approval of Minutes**

The Board voted unanimously to approve the minutes from its April 23<sup>rd</sup>, 2015 meeting.

**Correspondence**

There was no correspondence reported.

**Feedback on the Field Visits to Acid Mine Drainage (AMD) Treatment Projects**

Board members provided overwhelmingly positive feedback about the field trip to the following AMD treatment projects: 1) *Bell Colliery*; 2) *Mary D Borehole and Overflow*; 3) *Silver Creek*; and 4) *Weston Tunnel*. The Board was most impressed with the wide variety of display options that existed with the small number of sites visited (i.e., simple passive treatment and watershed restoration; environmental education/nature center enhancements; treatment of deeper underground mine pools per a gravity pipeline), as well as with the collaboration and engagement among government, industry, and environmental advocacy organizations (i.e., Keystone Anthracite, Inc. (KAI), the Schuylkill Headwaters Association (SHA), the Eastern Pennsylvania Coalition for Abandoned Mine Reclamation (EPCAMR), the Pottsville District Mining Office (Pottsville DMO), along with the Board liaison, who ensured that all efforts were coordinated accordingly and, as effectively as possible.

**Committee Reports**

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

- **Reclamation Committee:** There was mention of a Federal proposal, the Power Plus (POWER+) program, part of which includes a release of \$1 billion from the unappropriated balance of the Abandoned Mine Reclamation Fund to support reclamation work in the coalfields. This proposal will be discussed in further detail at the October Board meeting.

## Updates (General)

Mr. Allen began with his standard presentation regarding updates on Technical Guidance, National Pollutant Discharge Elimination System (NPDES) Permitting, the Permit Decision Guarantee (PDG) program, Alternative Bond System (ABS) Legacy Trust Account, the Land Reclamation Financial Guarantees, the Reclamation Fee Operations and Maintenance (O & M) status, and the Regulatory Update. The topic of Coal Fees was added for this meeting

- **Technical Guidance:** On the non-regulatory agenda, the following guidance documents are in process:
  - *Pre-Applications*
  - *Engineering Manual (Note: this is at the proposed guidance stage – the document is now under review by Regulatory Counsel)*
  - *Blasters' License Suspension*
  - *Coal Ash*
  - *General Permit (GP) Materials*
  - *Civil Penalties*
  - *Government-Financed Construction Contracts (GFCCs)*
- **NPDES Permitting:** To date (as of 6-30-15), DEP has sent 582 draft NPDES permits to the Environmental Protection Agency (EPA). In turn, EPA has provided comments or objections on 340 of these draft permits. The outstanding issues include:
  - *Checklist (there was a sulfate (SO<sub>4</sub>) issue here, which has been resolved, but DEP is still on the hook for it; template corrections, 1-year evaluations with EPA, and further reviews are also pertinent).*
  - *Remining and Total Maximum Daily Loads (TMDLs): This is all about effluent limits (EPA and DEP disagreements).*
  - *Sediment Pond Sampling on TMDLs: The main issue here relates to the inclusion of monitoring requirements for stormwater controls at these structures, along with covering all pollutants in the sampling of these ponds.*
  - *Detection Limits*
  - *EPA Letter from 6-11-15: This topic receives further attention elsewhere in the minutes.*
  - *NPDES Permitting Statistics: Here is how things shape up overall:
 
    - For NPDES permits with EPA comments, 310 permits have been issued, 13 permits could be issued, and 17 permits are pending*

- For NPDES permits that received no EPA comments (including 99 “no comment” letters), 202 permits have been issued, 31 permits could be issued, and 9 permits are pending (in this case, awaiting 30 days).
- **Historical Coal Permit Application Progress:** As of 6-30-15, the following status applies:
  - *There have been 1,455 of 1,629 permits disposed (89.3%).*
  - *There are 174 permits (10.7%) remaining for action; among these there are 100 renewals and 6 annual bond reviews.*
  - *The District Mining Office breakdown of permit applications is as follows: none for Greensburg, Moshannon or Knox; 105 for California; 68 for Pottsville; and 1 for Cambria.*
- **Trust Agreement/Bond Status:** As of 6-30-15, the following applies for this subject (total agreements (there are 165 of these), bonds, fully-funded trusts and partially-funded trusts):
  - *For January 2007, there were 56 total agreements: 31 bonds (worth \$84.1 million), 14 fully-funded trusts (worth \$38.6 million) and 11 partially-funded trusts (worth \$39 million).*
  - *For January 2011, there were 107 total agreements: 64 bonds (worth \$192 million), 30 fully-funded trusts (worth \$52.5 million – short of the \$69.1 million value expected) and 10 partially-funded trusts (including 3 Alternate Bonding System (ABS) sites – worth \$18.5 million (far short of the \$52.8 million value expected).*
  - *For a March 2015, there were 133 total agreements: 76 bonds (worth \$225 million), 39 fully-funded trusts (worth \$73 million – a little short of the \$77 million value expected) and 15 partially-funded trusts (including 3 ABS sites) worth \$60.6 million (far short of the \$127 million value expected)).*
  - *For June 2015, there were 134 total agreements: 77 bonds (worth \$230 million), 39 fully-funded trusts (worth \$73 million (a little short of the \$77.5 million value expected)) and 15 partially-funded trusts (including 3 ABS sites) worth \$60.9 million (far short of the \$142 million value expected)).*
- **Land Reclamation Financial Guarantees (LRFGs):** This topic was reviewed in terms of LFRG operators, permits and the total amount underwritten:
  - *LFRG Operators: As of 6-30-15, there are 85 operators (up from 79 last year), averaging \$248,307.00 in revenue receipts (with a revenue cap of \$2.83 million)*
  - *LFRG Permits: As of 6-30-15, there are 130 permits (up from 118 last year), averaging \$162,355.00 in revenues (with a revenue cap of \$2.1 million).*
  - *Total Amount Underwritten: As of the last quarter of June 2015, a total amount of \$19.2 million was underwritten for the LFRG program; as of 6-30-15, a total amount of \$21.1 million has been underwritten for the LFRG program.*
- **Reclamation Fee Account Status:** Monies collected in coal civil penalties and interest, additional revenues and potential expenditures for 2015-2016 were discussed:
  - *Reclamation Fee Account Revenues (Coal Civil Penalties and Interest – April 2015, May 2015 and June 2015):*

- April 2015: \$9,335.00 collected in coal civil penalties; \$524.08 earned in interest.
  - May 2015: \$41,388.67 collected in coal civil penalties; \$523.53 earned in interest.
  - June 2015: \$18,641.66 collected in coal civil penalties; \$1,180.83 earned in interest.
  - Total for Fiscal Year (FY) 2014-2015: \$174,455.00 collected in coal civil penalties (above the \$165,732.25 in revenue expected); \$6,352.13 earned in interest.
- Additional Revenue Sources: During FY 2014-2015, the total amount earned from LRFG in interest was \$23,970.20. This amount is slated for transfer to the Reclamation Fee O & M Trust Account (this is supposed to be automatic, but it has not happened as yet). Also total LRFG premiums for FY 2014-2014 totaled \$295,970.20.
- Current Balance, Previous Expenditures and Projected Expenditures: As of 6-30-15, the balance of the Reclamation Fee Account stands at \$3,247,670.65. Total expenditures during FY 2014-2015 were \$369,197.98. Projected Reclamation Fee Account expenditures (per requested spending authority) will be \$941,785.00. Based on these figures, it may be necessary to increase the reclamation fee to \$100/acre to maintain the required \$3 million balance in Reclamation Fee Account.
- Reclamation Fee Account Activity for FY 2014-2015(Revenues and Expenses): A revenue shortage of \$64,195.76 comes up here, as shown below
  - Revenues: \$6,352.00 earned in interest, with \$298,650.22 carry-over from CPs during FY 2013-2014. Total revenues: \$305,002.22
  - Expenditures: These totaled \$369,197.98, broken down as follows:
    - Personnel: \$16,549.49
    - Laboratory: \$5,279.00
    - Contracts: \$153,940.47
    - Grants: \$193,429.02
- **Regulatory Update:**
  - Acts 95 and 157: The Independent Regulatory Review Commission (IRRC) is looking at this regulatory package, which is likely to become a finalized rule within the next 6 weeks.
  - Remining (Subchapters F and G): This regulatory package was approved as a proposed rulemaking by the Environmental Quality Board (EQB) during its May meeting.
  - Office of Surface Mining (OSM) Program Consistency: The Board's Legislation, Regulation and Technical Committee is planning to look into timbering and bat issues associated with this matter.
  - Water Supply Replacement (Chapters 87 and 88): Review of these regulations has not begun yet – chapter comparisons are in order here (surface mining of coal; anthracite coal).

- Chapters 210 and 211 (Explosives): This regulatory package will be on the EQB agenda for the September meeting.
- Coal Fees: These are talked about briefly in this presentation; more details follow in a presentation dedicated to this topic.
- **Coal Fees**:
  - Three-Year Report: This was presented to the EQB during its May 2015 meeting. Besides the Clean Water Fund (CWF), monies are deposited into 3 other different coal mining funds:
    - Surface Mining Conservation and Reclamation Act (SMCRA)
    - Coal Refuse
    - BMCSLA
  - Revenues: These have varied over the past 3 fiscal years (Note: there are also provisions to include \$55,000.00 for deep mines and \$30,000.00 for coal refuse disposal as part of these revenues):
    - FY 2012-2013: \$54,417.00
    - FY 2013-2014: \$166,110.00
    - FY 2014-2015 (through June): \$100,962.43
  - CWF Mining Fee Revenues:
    - FY 2012-2013: \$247,800.00
    - FY 2013-2014: \$523,296.00
    - FY 2014-2014 (through June): \$447,729.00

## Coal Mining Program Fees

Mr. Allen continued with a presentation on coal mining program fees. Here, he focused upon the following matters:

- **Fee Schedule (2012)**: This depends upon a number of factors, all tied into the goal of generating \$400,000.00/year as the main approach (however, the factors appear to be prevalent in only some coal mining applications). The factors include:
  - Workload Hours;
  - Wage Rates (these were at the lower end during 2009);
  - Benefits (these account for 41% of the fees); and
  - Overhead (this accounts for 30% of the fees).
- **Cost Distribution**: As distributed by Object Class (per the Federal Assistance Manual – Option 1, Section 5-200-40 B), coal mining program cost distribution is broken down into the following categories and percentages:
  - Permitting: 22.15%
  - Inspection and Enforcement: 42.20%

- Lands Unsuitable for Mining: 0.50%
- Administration and Support: 35.10%
- Small Operators Assistance Program (SOAP): 0.05% (note: this program was phased out completely in early- to mid-2015).
- **Indirect Charges**: For fiscal year 2015, this figure stands at 25.23% (as calculated by the Governor's Budget Office).
- **Benefit Rate**: For the DEP 2015 budget, this figure was 69.8% (as calculated by the DEP Bureau of Fiscal Management in October 2014).
- **Wage Rates (July 2014)**: The job titles that are most often involved in the review of coal mining permit applications include:
  - Inspectors (Pay Grade 7): rates of \$23.36/hour to \$35.52/hour; and
  - Hydrogeologists (Pay Grade 8): rates of \$26.68/hour to \$40.52/hour
- **Workload Analysis – Inspections**: These are divided between cases that qualify as active and passive status (based on 5 hours of work per complete application and 4 hours of work per partial application):
  - Active Status Cases: These covered 52 hours of work, with 4 complete application reviews and 8 partial application reviews.
  - Inactive Status Cases: These included 20 hours of work, with 4 complete application reviews.

## Bond Rate Guidelines Update

Mr. Carl provided information on the latest developments with coal mining bond rate guidelines. The presentation covered the following topics:

- **Abandoned Mine Land (AML) Reclamation Grading Costs (2015)**:
  - Total Reclamation Projects: For 2015 to date, there have been 4 reclamation projects with 912,076 cubic yards graded.
  - Costs Per Cubic Yard: For 2015 to date, the cost range between \$0.75 per cubic yard to \$2.00 per cubic yard.
  - Three Lowest Bid Averages (for total reclamation projects): For 2015 to date, these stood at \$0.91/cubic yard, \$1.04/cubic yard and \$1.29/cubic yard – for a weighted average of \$1.08/cubic yard. (It should be noted that there was one project with 3 grading areas – the Hazleton Airport project. Here, there was a situation where there was not enough mine spoil material to complete the job, and similar spoil material from other nearby sources was brought in; the cost of this material ranged from \$1.50/cubic yard to \$4.00/cubic yard, and this cost raised the overall weighted average).
  - Additional Yardage: For 2015 to date, there was a total of 823,000 cubic yards graded, with a cost between \$1.50/cubic yard and \$4.00/cubic yard. (It should be noted that a recommendation was made for a new category of grading costs, with an emphasis upon fees and material tonnages; this matter may be reviewed by the Board via a special

committee, which would work with the Bureau of Abandoned Mine Reclamation (BAMR) on reclamation design matters).

- Three Lowest Bid Averages (for additional yardage): For 2015 to date, these stood at \$2.93/cubic yard, \$2.95/cubic yard and, \$3.91/cubic yard – for a weighted average of \$3.26/cubic yard.
- Grading (One Area to Another): For 2015 to date, the costs here ranged between \$0.85/cubic yard and \$1.30/cubic yard.
- Current 2013-2015 Weighted Average: For 2015 to date, this cost figure stood at \$0.92/square foot for projects involving 500 feet or less of reclamation grading activity.
- Upcoming Reclamation Grading Projects: There are 3 of these open for bid for the remainder of 2015. The total grading for these projects is 579,152 cubic yards.
- **AML Reclamation Revegetation Costs (2015)**:
  - Number of Projects and Acreage: For 2015, there have been 4 reclamation projects with 100.4 acres of revegetation.
  - Costs Per Acre (3 Lowest Bids): For 2015, these costs ranged from \$1,564.06 to \$2,131.41.
  - Weighted Averages (3 Lowest Bids): For 2015, this figure stood at \$1,836.10.
- **AML Reclamation Mulch and Seed Bed Preparation and Seed Costs (2015)**:
  - Mulch Costs Per Acre (3 Lowest Bids): \$597.54/acre.
  - Three-Year Weighted Average: \$805.19/acre.
  - Seed Bed Costs Per Acre (3 Lowest Bids): \$175.19/acre.
  - Three-Year Weighted Average: \$249.18/acre.
  - Seed Costs (3 Lowest Bids): \$293.38/acre.
  - Three-Year Weighted Average: \$300.67/acre.
- **Bond Rate Data (2013 to 2015, with Projections for 2016)**: Refer to the table below, which was taken directly from the presentation itself:

Summary of Calculated Bond Rates by Task

	Unit	2013 wgt ave	2013 amt	2014 wgt ave	2014 amt	2015 wgt ave	2015 amt	13-15 Weighted	2016
Grading <sup>1</sup>	Yd	\$0.87	3,709,847	\$0.93	4,986,857	\$1.08	912,076	\$0.92	\$0.95
Reveg	Acre	\$1,924.54	332.0	\$1,844.99	540.0	\$1,836.10	100.4	\$1,871.23	\$1,900.00
Mulch	Acre	\$788.81	352.5	\$865.31	442.8	\$597.54	100.4	\$805.19	
Seed Bed Prep	Acre	\$205.98	352.5	\$304.43	408.8	\$175.91	100.4	\$249.18	
Seed	Acre	\$256.68	352.5	\$326.15	656.3	\$293.38	165.9	\$300.67	

	2014	2014	2015	2015	2016	2016
Reveg Tot	\$1,800.00	\$1,800.00	\$1,900.00	\$1,900.00	\$1,900.00	\$1,900.00
Mulch	\$800.00	\$800.00	\$800.00	\$800.00	\$800.00	\$800.00
Seed Bed	\$215.00	\$215.00	\$250.00	\$250.00	\$250.00	\$250.00
Seed	\$280.00		\$300.00		\$300.00	
	\$505.00	\$785.00	\$550.00	\$850.00	\$550.00	\$850.00
	Pasture	w/seed	Pasture	w/seed	Pasture	w/seed

## **Enhancing Transparency in the Policy Process**

Ms. Henry presented some details regarding the DEP technical guidance document for public participation enhancement. Here, she stressed the development of a new tool, E-Comment, for public engagement and feedback, along with the need to involve experts on DEP advisory committees and, for more collaboration between DEP Central Office and its Field Offices. The technical guidance document was published as interim final on May 30<sup>th</sup>, 2015, followed by a 45-day public comment period, before finalization. DEP encourages commenters to use the E-Comment tool to submit comments on its policies, guidance documents and State Implementation Plans (SIPs) for air quality; however, DEP still accepts written comments on these matters as well.

The E-Comment tool can be accessed from the DEP website at the Public Participation page. Once a user is connected to the E-Comment tool, he or she can do the following: 1) view policies, guidance documents or air quality SIPs that are open for comment; and 2) submit comments and view other comments that have been submitted by others. All comments made on any DEP policy, guidance document or air quality SIP remain available for viewing until the policy guidance document or air quality SIP becomes final. As part of the presentation, Ms. Henry included a demonstration of the E-Comment tool. She also noted that regulations will be merged into E-Comment in the near future to make it a “one stop shop” for the public to comment on all proposals that DEP has out for comment.

## **New Business**

Mr. Hughes mentioned that relevant presentations from the 2015 PA Abandoned Mine Reclamation Conference were available on the conference’s website: [www.treatminewater.com](http://www.treatminewater.com).

## **Open Time**

Mr. Bodner mentioned some issues with the U. S. Army Corps of Engineers’ (US ACE) State Programmatic General Permits, the PASPGP-4, which is broken into Categories I, II, and III. Category I provides minimum thresholds of < 250 linear feet of stream impact, or < 1 acre total disturbance; in these situations, US ACE review is not required. However, even under this threshold, coal and non-coal mining activities are automatically defaulted to US ACE review. Specifically, the descriptions under Item C (Category III Activities - Page 19 of the permit), and likewise, related Item 12 (Coal and Non-Coal Mining Activities - Page 23 of the permit) were of concern.

Mr. Bodner added that in recent experiences with the PASPGP-4, another level of review has been added onto simplified projects which, had they not been mining related, would have been qualified as a Category I review by DEP only. He assessed that the US ACE review further complicates and delays simplified projects and, that his company usually ends up dealing with someone in the US ACE who does not have a basic understanding of mine sites. Mr. Chamberlin agreed, recommending further review of the matter.

## **Adjourn**

The Board adjourned its meeting at approximately 11:15 a.m. The Board will meet again on October 22<sup>nd</sup>, 2015, at the Rachel Carson State Office Building in Harrisburg.