



October 20, 2016

Dear Acting Secretary McDonnell,

As Chairman of the Mining and Reclamation Advisory Board (MRAB), and an active member and former Chairman of the Pennsylvania Coal Alliance, I am writing regarding the Department's proposal to the MRAB regarding increases to coal fees.

The MRAB was established under the Surface Mining Conservation and Reclamation Act of 1945, §18(g), for the purpose of assisting the secretary in expending funds and advising the secretary on all matters pertaining to mining and reclamation. Earlier this year the Department presented to the MRAB a proposal for consideration that substantially increased the Mining Program's surface and underground coal fees in PA Code Title 25, §86.1, and added fees for new categories.

Pennsylvania's bituminous coal production decreased by over 15% from 2014 to 2015 and more significant reductions are anticipated this calendar year. In addition, there have been substantial decreases in mining authorizations since 2009, yet the cost of the Mining Program has increased by over \$4.5 million in the past three years. The MRAB acknowledged the need for industry to continue to contribute to the Mining Program without jeopardizing reclamation that is beneficial to all taxpayers or placing the onus on a select few, and asked that Program spending be reflective of the state of industry. As such, the MRAB responded to the Department's initial proposal with several recommendations, and suggested a 50% increase to the current fee schedule that was established in 2012.

The Department did not accept the MRAB's recommendations. As a result, the MRAB's Legislative, Regulatory and Technical (LRT) Committee has continued to meet with the Department in recent months to assess the proposal. While the MRAB does not support a fee increase above 50% of the current fee schedule, the LRT Committee has acknowledged the Department's cooperation. It is my understanding that at the most recent LRT Committee meeting members of that Committee conceded to the Department's September proposal on surface mining coal fees for consideration by the full MRAB, but were reluctant to discuss fees for underground operators.

As you know, the primary focus of the MRAB is surface mining and reclamation, and the composition of the MRAB includes both anthracite and bituminous surface operators but does not include any representation from underground operators. Considering this, the LRT Committee has asked the Department to separately consult with underground operators on any proposed increase to their current fee schedule.

With that in mind, it is my understanding that since the September meeting of the LRT Committee the Department has met with and initiated a dialogue with underground operators. During that meeting,

underground operators questioned the permitting processes and the hours needed to complete certain permitting actions. As a result, underground operators requested that the Department:

- Establish a checklist for National Pollutant Discharge Elimination System (NPDES) permit requirements for submission to the Environmental Protection Agency (EPA). An underground operator will submit the NPDES permit to DEP and, if all checklist items are included, forward the permit application to the EPA. This action will reduce duplicative oversight by the Department and result in fewer required staff hours.
- Eliminate the requirement for a Cumulative Hydrologic Impact Assessment (CHIA) at every permit renewal. CHIA is required for approving operations and revisions to operations per 30 CFR 780.21(g), not for renewals. This action will result in fewer required staff hours.
- Reassess the hours needed to review:
 - New Bituminous Underground Mining Permits
 - Bituminous Coal Underground Mining Permit Renewals
 - Bituminous Coal Underground Mining Permit Major Revisions
 - Six-month maps
- Expand fee categories in New Bituminous Underground Permit Applications, including but not limited to:
 - Longwall mine/room and pillar mine with secondary mining under streams
 - Room and pillar mine
 - Mine shafts
- Expand fee categories in Major Permit Revisions to include:
 - Underground acreage addition
 - New surface mining opening site
 - Surface site revision
 - Boreholes
 - New NPDES outfall
- Expand fee categories in renewals to include
 - Mine shaft sites
- Commit to working with industry to examine the permit renewal process and identify efficiencies to improve to process

Thank you in advance for your attention to this very important matter. It is of utmost importance that an updated fee schedule for surface and underground operators encourages coal mining in our Commonwealth and recognizes the economic benefit to families, businesses, and communities.

Sincerely,



David Osikowicz, Chairman
Mining and Reclamation Advisory Board

cc: MRAB (via e-mail)

