

Annual Report July 2012 – June 2013



Commonwealth of Pennsylvania
Thomas W. Corbett, Governor
Department of Environmental Protection
E. Christopher Abruzzo, Secretary



pennsylvania

DEPARTMENT OF ENVIRONMENTAL PROTECTION

EDITOR'S NOTE: All references in this report - including position titles held by individuals, legislative references and time references - are current for the time period ending June 2013.

A Message from MRAB Chairman David Osikowicz

On behalf of the Mining and Reclamation Advisory Board (MRAB) members, I am pleased to present for your review the Board's Annual Report, documenting the Board's activities from July 2012 through June 2013. The Board continues to address environmental problems related to past coal mining practices and to assist the Department in ensuring that current industry practices represent an environmentally responsible approach to mining. This report fulfills the statutory obligations of the Surface Mining Conservation and Reclamation Act (SMCRA).

The Board holds four full board meetings per year, as outlined in the by-laws. For the 2012-2013 reporting period, full Board meetings were held July 12, 2012, October 25, 2012, January 10, 2013 and April 25, 2013. The Regulation, Legislation and Technical Committee met on January 22, 2013 to discuss implementation of the SMCRA Amendments - Mining Permits and Bioenergy Crops (Act 95 of 2012). Agendas for these meetings can be found on the MRAB web site.

The July 12, 2012 meeting was held at the Cambria District Mining Office in connection with the annual field trip the previous day. The Board toured the Revloc Reclamation site (Beneficial use of ash-reclamation of land/stream) and the Colver Power Plant Coal Refuse plant.

During the time frame of this report, Pennsylvania Department of Environmental Protection (PA DEP) staff provided the Board with regular updates on the status of Bond Rate Guidelines, Bureau of Abandoned Mine Reclamation (BAMR) Projects and the Alternative Bonding System (ABS) Legacy Sites. PA DEP staff also presented information to the Board on E-Permitting; Land Reclamation Financial Guarantee; National Pollutant Discharge Elimination System (NPDES) permitting reviews; Federal Office of Surface Mining (OSM) Oversight Activities; Permit Decision Guarantee (PDG) policies and, associated standard operating procedures and checklists; Mine-Influenced Water for Natural Gas Extraction; and Reclamation in Lieu of Civil Penalties.

The Board will continue to provide advice and technical input to the Department with regard to expenditures and program administration of Abandoned Mine Lands (AML) Title IV monies, proposed regulatory rulemaking issues including Act 95, permit fees, financial guarantee and OSM issues, and other environmental issues as they arise.

The Board recognizes the dedication and support of all Board members and alternates and the ongoing contributions by both PA DEP staff and Board members.

Furthermore, the Board remains highly committed to advising and working with the department in carrying out its mission, evaluating the rights and responsibilities of industry, and making responsible, calculated recommendations for the citizens of the Commonwealth.

Sincerely,

A handwritten signature in black ink, appearing to read "David Osikowicz". The signature is fluid and cursive, with a large initial "D" and "O".

David Osikowicz,
Chairman

DRAFT

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Introduction

The Mining and Reclamation Advisory Board (MRAB) was created in 1984 by Act 181 of the Pennsylvania General Assembly, which amended the Surface Mining Conservation and Reclamation Act (SMCRA). The Board's purpose is to assist the Secretary of the Pennsylvania Department of Environmental Protection (PA DEP) in expending reclamation funds for the purposes provided by SMCRA and to advise the secretary on all matters pertaining to mining and reclamation. The advisory role of the Board also covers Title IV of the federal Surface Mining Control and Reclamation Act, which relates to abandoned mine land reclamation issues.

The Board is comprised of the following members:

- Two licensed bituminous surface mine operators;
- One licensed anthracite surface mine operator;
- Four public members of the Citizens Advisory Council, elected by the Council;
- One anthracite or one bituminous licensed professional engineer;
- One county conservation district representative, appointed by the Pennsylvania State Conservation Commission;
- One majority party state senator, appointed by the president pro tempore of the Senate;
- One minority party state senator, appointed by the president pro tempore of the Senate;
- One majority party state representative, appointed by the speaker of the House of Representatives; and
- One minority party state representative, appointed by the speaker of the House of Representatives.

The Board operates under bylaws adopted in January 1989 and amended in October 1993 and December 1996. The bylaws establish a committee structure and other operational procedures, including a minimum of four meetings per year, held in January, April, July and October, as required by SMCRA. ***The bylaws current for the time period covered by this report are found in Appendix A.***

The Board's Committees

- **Annual Report Committee**

As mandated by Section 18(g)(5) of SMCRA, "The Board shall prepare an annual report on its activities and submit the report to the Senate Environmental Resources and Energy Committee and the House Conservation Committee." Throughout the reporting period, the committee compiles and summarizes information for inclusion in the Annual Report.

Members of the committee:

Josie Gaskey, Chairperson

- **Policy Committee**

The Policy Committee was formed in October 1993, under the name of "*Policy and General Issues Committee*." Its mission is to consider mining and reclamation policies identified as integral to the timely and efficient administration and operation of DEP's mining regulatory and abandoned mine reclamation programs.

Members of the committee:

Mark A. Snyder, Chairperson

- **Reclamation Committee**

The Ad Hoc Committee on Reclamation Issues was originally formed at the July 1997 Board meeting in response to concerns regarding the Bark Camp Mine Reclamation Laboratory in Clearfield County, the Reed and Strattanville sites in Clarion County and, a package of reclamation initiatives being developed under PA DEP's "Reclaim PA" program.

At the October 22, 1999 MRAB quarterly meeting, the Board voted unanimously to change the name to the Reclamation Committee to reflect the committee's ongoing work. The committee addresses reclamation issues, initiatives and activities.

Members of the committee:

Duane Feagley, Chairperson

David Hess

Robert E. Hughes

Andy McAllister

- **Regulation, Legislation and Technical Committee**

The Regulation, Legislation and Technical Committee reviews all major regulatory packages coming before the Board during the reporting period and reports back to the full Board.

Members of the committee:

Jack R. Chamberlin, Chairperson
The Honorable Tim Solobay
The Honorable Jeffrey P. Pyle
The Honorable Donald C. White
The Honorable Deberah Kula
David D. Osikowicz

FULL BOARD

SMCRA mandates that the MRAB meet four times per year. Throughout the reporting period, the full Board met four times. The following sections provide a summary of the activities of the full Board. For a complete list of meeting dates and locations, see **Appendix D**. Also, for more details on these meetings, refer to the MRAB web site and, the MRAB meeting minutes.

2012-2013 MAIN AGENDA TOPICS (Presented Alphabetically)

ABS Progress Report

PA DEP provided reports on the ABS Legacy Trust Account, Reclamation Fee Account revenue, ABS Legacy Permits and Bond Status.

ACT 95

Act 95 – Amendments to SMCRA: Mining Permit and Bioenergy Crop Bonding (signed into law on July 5, 2012; effective on September 5, 2012) provides financial guarantees to surface operators in lieu of posting reclamation and biofuel bonds, and allows discretionary transfers from Gross Receipts Tax (GRT) revenue to fund O&M costs at ABS Legacy Sites.

AML Grant Funding

PA DEP provided information related to delays in the distribution of AML grants for 2013, given the federal sequestration events. Pennsylvania's share of these AML Grant monies is \$65 million, \$27 million of which has been set aside for construction contracts, and, \$15.1 million of which has been set aside for AMD work. Additionally, \$6.5 million (10% of the total) was withheld by the OSM, due to the fiscal cliff situation. However, when this situation is over, Pennsylvania will get another \$3.2 to \$3.3 million for construction, and, an additional \$800,000.00 for AMD work.

Bonding

Bond Rate Guidelines (BRG) – PA DEP provided the Board with its updated projection of the 2013 bond rates based on the average costs of recent reclamation projects. At the January 10, 2013 meeting, the proposed Land Reclamation Bond Rate Guidelines for 2013 were presented indicating increases in some of the tasks. The 2013 bond rates went into effect on April 1, 2013.

Bonding for Land Reclamation Technical Guidance Document

PA DEP provided updates on the status of Technical Guidance Document 563-2504-001 (*Conventional Bonding for Land Reclamation (Coal)*) during this reporting period.

Bureau of Abandoned Mines Reclamation (BAMR) Projects/Status Report

Updates on reclamation projects were supplied by PA DEP's Bureau of Abandoned Mine Reclamation (BAMR). 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 acres at a cost of \$135,263. For

future completions, there are 40 contracts to reclaim 1,161.6 acres, at a cost of \$42,560,817. For future awards, there are 136 contracts to reclaim 4,626.8 acres, at a cost of \$151,107,360.

E-Permitting

PA DEP provided the Board with a discussion of the pros and cons of going to a paperless permitting system. Specifically, the matter of expanding e-permitting to all District Mining Offices (the process currently exists in the California District Mining Office) in order to promote a more uniform approach to permitting was positive. However, there were also concerns as to whether or not e-permitting documents could be altered by a computer savvy individual.

Field Trip

The MRAB holds an annual field trip. The 2012 field trip was held on July 11, 2012, and it took the form of a coal refuse-to-alternative energy tour. The Board toured the Revloc Reclamation site (Beneficial use of ash-reclamation of land/stream) and the Colver Power Plant Coal Refuse plant – all part of the Ebensburg Power Company (EPC). During the field trip, the Board learned about the following: *1) the alternative energy production processes that occur at EPC; 2) water quality monitoring at EPC's Nanty Glo East and Nanty Glo West operations; and 3) overall reclamation activities that occurred at Revloc between 1999 and 2010.* The field trip was sponsored by the Anthracite Region Independent Power Producers (ARIPPA).

Mine-Influenced Water for Natural Gas Extraction

PA DEP presented a white paper on the use of Mine-influenced water for natural gas extraction.

NPDES Permitting

PA DEP personnel provided regular updates on the NPDES draft mining permits sent to the United States Environmental Protection Agency (US EPA) for review. This is because the US EPA currently has oversight of the development of these permits. PA DEP is working to develop a guidance document and a permit template, all in order to address US EPA concerns. Once these items are completed, US EPA may end its oversight of the PA DEP NPDES permitting program for mining permits. As of April 15, 2013, 330 draft NPDES permits have been sent to the US EPA; 84 of these were issued without comment, while 144 of these were issued with minor comments. Additionally, 24 more permits could be issued with comments (minor), while 32 more permits could be issued without comments. Lastly, there are 46 permits pending; 20 of these with a 30-day wait and, 26 with comments (minor).

OSM (Office of Surface Mining) Oversight Activities

George Reiger (OSM) updated the Board regarding OSM's 2010 National Priority Review report on the adequacy of bonding in Pennsylvania's program. The history and methodology used to develop the report were discussed, along with the results. Overall, OSM found that PA DEP consistently adheres to the Bonding Program with only minor adjustments being needed.

Permit Decision Guarantee (PDG)

On a regular basis, PA DEP provided updates on this program in response to the PDG operations, development of Standard Operating Procedures (SOPs) and checklists, and, concerns regarding the backlog of permits in the system. To address these matters, PA DEP completed its SOPs and checklists for the PDG during this reporting period. Also, the first quarterly report on the PDG was issued on February 14, 2013; here, PA DEP met the majority of the PDG timeframes for its mining-related permits. Also, as of April 15, 2013, 787 mining permit applications in the queue have been disposed, with 843 such applications still remaining for action. The mining permit application queue is slated for completion by the end of July 2013.

Reclamation and Remining Incentives Report

PA DEP updated the Board on Pennsylvania's reclamation and remining incentives programs which have been very successful. Specific details can be found on MRAB's website presentations throughout the report period.

Reclamation in Lieu of Penalties

PA DEP gave a brief overview of the program and gave the Board members information about what is required when approving proposals related to reclamation in lieu of civil penalties. PA DEP indicated there is a guidance document available relating to this matter - *Document 562-4180-309 (Reclamation in Lieu of Cash Payment for Civil Penalties)*, along with two other related guidance documents: 1) *Document 562-4180-306 (Coal Civil Penalties)*; and 2) *Document 562-4180-311 (Civil Penalty Collections)*.

Regulatory Updates

Coal Fee Package was approved by the Independent Regulatory Review Commission (IRRC) in September 2012 and became effective in November 2012, upon publication in the PA Bulletin (i.e., 42 Pa B, 7013; or, PA Bulletin Volume 42, Number 45; page 7013).

Remining, Water Supply Replacement for Surface Mines, and OSM Program Inconsistencies - The Board was updated at several meetings regarding these draft rulemakings. The Board moved that they should be involved in the review of these rulemakings.

ACT 95 Implementation - DEP updated the Board on the draft proposed rulemaking for implementing Act 95.

Treatment Trust Fund Status Report

The MRAB received regular updates from the Bureau of Mining and Reclamation on the status of the Treatment Trust Fund throughout the time frame covered by this Annual Report. PA DEP continues to work to secure trusts and bonds to guarantee that sites with post-mining discharges are capable of treatment in perpetuity. PA DEP also continues to make progress with respect to the perpetual treatment of these sites and the number of trusts that are fully funded.

PRESENTATIONS

Cambria DMO ABS/PBF Report

Malcolm Crittenden (PA DEP – Cambria District Mining Office) presented information regarding contracting procedures for site reclamation.

Title V Funding/Baucus Amendment

Eric Cavazza (PA DEP –Director, Cambria District Mining Office) provided information relating to the Surface Transportation Bill (HB 4348 and Baucus Amendment) which would impact the Abandoned Mine Lands grants to States and could result in a reduction of grants to all states receiving AML funds. DEP further indicated a technical correction was included in the Continuing Appropriations Resolution that was signed into law on September 28, 2012.

Appendix A

BYLAWS OF THE MINING AND RECLAMATION ADVISORY BOARD

As Amended December 12, 1996

ARTICLE I

Authorization

The Mining and Reclamation Advisory Board is authorized and organized pursuant to Section 18(g) of the Pennsylvania Surface Mining Conservation and Reclamation Act (Act 181 of 1984) as amended by Act 173 of 1992.

ARTICLE II

Purpose

The advisory Board is charged to assist the secretary to expend the funds for the purposes provided by this act and to advise the secretary on all matters pertaining to surface coal mining and reclamation which shall include, but not be limited to, experimental practices, alternate methods of backfilling, selection of reclamation projects, alternate reclamation methods, obligations for pre-existing pollution liability, alteration of reclamation loans, reclamation fees and bonding rates and methods.

ARTICLE III

Membership

The Board shall be comprised of three coal operators, two of whom shall be licensed bituminous surface mine operators and one of whom shall be a licensed anthracite surface mine operator; four public members from the Citizens Advisory Council, who shall be appointed by the council; two members, one from the Anthracite and Bituminous Licensed Professional Engineers, and one from the County Conservation Districts, who shall be appointed by the State Conservation District Commission; four members of the General Assembly, two from the Senate, one member from the majority party and one member from the minority party, who shall be appointed by the president pro tempore; and two from the House of Representatives, one from the majority party and one from the minority party, who shall be appointed by the speaker of the House of Representatives.

A. Board members shall designate an alternate. The chairperson shall be notified, in writing, of such alternate.

B. The Board may recommend to the appointing authority removal of any member not attending, or not represented by a designee, at two Board meetings in a year.

ARTICLE IV

Voting

Members, or designated alternates, shall be entitled to one vote, in person, on all matters that shall come before the Board. No voting shall be done without a quorum, unless otherwise indicated in these bylaws. A majority of the membership of the Board shall constitute a quorum.

ARTICLE V

Officers

The officers of the Board shall be a chairperson and a vice-chairperson.

The chairperson and vice chairperson shall be elected from the membership of the Board, as defined in the Pennsylvania Surface Mining Conservation and Reclamation Act, as amended, and may not be the secretary of the Department of Environmental Protection, or his designee. They shall hold office for a term of one year, or until a successor is elected.

It shall be the duty of the chairperson to preside at all meetings of the Board, call special meetings, prepare and distribute the meeting agenda and perform such other duties as pertain to the office.

It shall be the duty of the vice-chairperson to perform the duties of the chairperson in his/her absence.

ARTICLE VI

Administration

Administrative and clerical duties shall be performed by the Office of Mineral Resources Management, Department of Environmental Protection. A department staff person shall function as a recording and corresponding secretary. Included among these administrative duties shall be:

- A. To give timely notice of meetings of the Board and committees.
- B. To record full Board and committee meeting minutes and keep a permanent file. Board and committee meeting minutes shall be distributed to the full membership. Minutes should be reviewed by the chairperson or vice-chairperson prior to distribution.
- C. To conduct both outgoing and incoming correspondence and maintain a permanent file of such correspondence, and
- D. To perform such other duties as may be requested by the Board, including, but not limited to, travel arrangements, conference calls, etc.

In addition, staff representatives from the Office of Mineral Resources Management shall serve as staff liaison to the Board.

ARTICLE VII

Committees

The Board may establish committees to assist in performing its advisory duties.

- A. Committees shall be established by a majority vote of those members attending a regular or special meeting of the Board.
- B. The Board chairperson shall appoint committee members. The committee chairperson shall be selected by its members. The committee chairperson will be responsible for calling committee meetings, requesting needed assistance from DEP, and reporting to the Board, and shall receive necessary administrative and clerical support from DEP.
- C. Each committee shall develop and adopt a statement of purpose or objective of the committee at a meeting of that committee after its creation.
- D. The chairperson of the Board shall appoint a committee to prepare the Annual Report, as mandated by Section 18(g) of the Pennsylvania Surface Mining Conservation and Reclamation Act.
- E. A listing of the committees and their statements of purpose shall be maintained as an appendix to these bylaws. Changes to the appendix shall not constitute a change to the bylaws.

ARTICLE VIII

Meetings

The Board shall meet on the first Thursday of the months of January and July and the fourth Thursday of the months of April and October, unless changed by a majority of the members. Alternate meeting dates and special meetings shall be called by the chairperson, in consultation with the vice-chairperson. Committee meetings shall be called by committee chairpersons, who shall also notify the full Board.

ARTICLE IX

Participation by Non-Board Members

- A. Formal Presentation

Any person may ask the Board for time on the formal agenda to present policy, regulatory or legislative concerns for the Board to consider. The request shall be made in writing to the chairperson and include a summary of the presentation. The chairperson shall determine the interest of the Board in the subject and decide if the presentation will be allowed during the formal

agenda. Requests shall be submitted at least one month prior to a Board meeting.

B. Informal Discussion

At the discretion of the chairperson, any person present at the meeting shall be afforded the opportunity to speak to the Board or ask questions of Board members.

ARTICLE X

Amendments

The bylaws may be amended, repealed or suspended at any meeting of the Board by a two-thirds vote of the members of the Board, provided that written notice of such amendment, repeal or suspension shall have been sent to each member at least one week prior to said meeting.

ARTICLE XI

Board Representation

The Board shall act as a body in all matters before it and only the chairperson, or his or her designee, the vice-chairperson or the Board's designee shall speak on behalf of the Board.

Appendix B

OFFICERS OF THE BOARD FOR THE REPORTING PERIOD July 2012 – June 2013

Board Chairperson	David Osikowicz
Board Vice Chairperson	Robert Burns
Annual Report Committee Chairperson	Josie Gaskey
Policy Committee Chairperson	Mark Snyder
Reclamation Committee Chairperson	Duane Feagley
Regulation, Legislation and Technical Committee Chairperson	Jack Chamberlin

Appendix C

BOARD MEMBERSHIP FOR THE REPORTING PERIOD July 2012 – June 2013

Board Member	Position	Alternate
David Osikowicz	Bituminous Surface Mine Operator	George Ellis
Mark Snyder	Bituminous Surface Mine Operator	George Ellis, Darrel Lewis
Jack Chamberlin	Licensed Professional Engineer	George Ellis, Josie Gaskey
Robert Burns	Anthracite Surface Mine Operator	Duane Feagley
Sen. Tim Solobay	General Assembly	Michael Kishbaugh
Sen. Donald White	General Assembly	Allison Dutrey
Rep. Jeffrey Pyle	General Assembly	Ryan Kline
Rep. Deberah Kula	General Assembly	Joyce Martin, Tara Smith
Burt Waite	Citizens Advisory Council	Marjorie Hughes, Mark Killar
David Hess*	Citizens Advisory Council	Marjorie Hughes, Mark Killar
Cynthia Carrow	Citizens Advisory Council	Marjorie Hughes, Mark Killar
Terry Dayton	Citizens Advisory Council	Marjorie Hughes, Mark Killar
Robert Hughes	Luzerne County Conservation District	Andy McAllister, Bob Smith

*At its January 15th, 2013 meeting, the Citizens Advisory Council (CAC) appointed David Hess to replace Eric Conrad, who resigned from the CAC on November 15th, 2012.

Appendix D

MEETING DATES DURING THE REPORTING PERIOD July 2012 – June 2013

Date	Location	Meeting
April 25, 2013	Harrisburg, PA	Full Board
January 22, 2013	Harrisburg, PA	Regulation, Legislation and Technical Committee
January 10, 2013	Harrisburg, PA	Full Board
October 25, 2012	Harrisburg, PA	Full Board
July 12, 2012	Cambria DMO	Full Board (Annual Field Trip Meeting)

Appendix E

MRAB COMMITTEES FOR THE REPORTING PERIOD July 2012 – June 2013

Annual Report Committee

<p>Josie Gaskey, Chairperson Pennsylvania Coal Association 212 North Third Street Suite 102 Harrisburg, PA 17101 Tel: 717-233-7900 ex 24</p>	<p>Ryan Kline (Alternate) PA House of Representatives G-09 Irvis Office Building Harrisburg, PA 17120 Tel: 717-787-9516</p>
<p>Marjorie Hughes (Alternate) Citizens Advisory Council P.O. Box 8459 13th FL RCSOB Harrisburg, PA 17105-8459 Tel: 717-787-4527</p>	<p>Michael Kishbaugh (Alternate) PA State Senate PO Box 203046 Harrisburg, PA 17120-3046 Tel: 717-787-1463</p>

Reclamation Committee

<p>Duane Feagley, Chairperson PA Anthracite Council PO Box 138 Pottsville, PA 17901</p>	<p>David Hess Crisci Associates 204 State Street Harrisburg, PA 17101</p>
<p>Robert E. Hughes EPCAMR 485 Smith Pond Road Shavertown, PA 18704 Tel: 570-674-3411 Fax: 570-674-7989</p>	<p>Marjorie Hughes (Alternate) Citizens Advisory Council P.O. Box 8459 13th FL RCSOB Harrisburg, PA 17105-8459 Tel: 717-787-4527</p>
<p>Andy McAllister (Alternate) WPCAMR Green Forge Building 226 Donohoe Road, Suite 110 Greensburg, PA 15601</p>	

Regulation, Legislation and Technical Committee

<p>Jack R. Chamberlin, Chairperson 702 Chamberlin Road Brookville, PA 15825 Tel: 814-849-4181 Fax: 814-849-7166</p>	
<p>The Honorable Tim Solobay Senate of Pennsylvania Senate Post Office Box 203014 Harrisburg, PA 17120-3014 Tel: 717-787-7105 Fax: 717-783-4141</p>	<p>Marjorie Hughes (Alternate) Citizens Advisory Council P.O. Box 8459 13th FL RCSOB Harrisburg, PA 17105-8459 Tel: 717-787-4527</p>
<p>David D. Osikowicz Original Fuels, Inc. P.O. Box 343 Punxsutawney, PA 15767 Tel: 814-938-5171 Fax: 814-938-5008</p>	<p>The Honorable Jeffrey P. Pyle Pennsylvania House of Representatives House Post Office Box 202060 Harrisburg, PA 17120-2060 Tel: 717-783-5327 Fax: 717-260-6511</p>
<p>The Honorable Donald White Main Capitol Building PO Box 2023041 Harrisburg, PA 17120-3041 Tel: 717-787-8724</p>	
<p>The Honorable Deberah Kula 104A East Wing P.O. Box 202052 Harrisburg, PA 17120-2052</p>	

Policy Committee

<p>Mark A. Snyder, Chairperson State Industries, Inc. P.O. Box 1022 Kittanning, PA 16201 Tel: 724-548-8101 Fax: 724-545-2989</p>	
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