

Annual Report July 2017 – June 2018



Commonwealth of Pennsylvania
Thomas W. Wolf, Governor
Department of Environmental Protection
Patrick W. McDonnell, 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 2018.

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 2017 through June 2018. 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 2017-2018 reporting period, full Board meetings were held on July 20, 2017, October 19, 2017, January 11, 2018 and April 19, 2018. The Regulation, Legislation and Technical (RLT) Committee met on December 7, 2017 to discuss the timbering issues related to surface coal mining and, on January 11, 2018 to discuss the Water Supply Replacement regulations; the RLT Committee also met on April 19, 2018 for further discussions of the Water Supply Replacement regulations.

The July 20, 2017 meeting was held at the Knox District Mining Office in connection with the annual field trip the previous day. The Board toured the following acid mine drainage (AMD) treatment facilities during the field trip: 1) *REM Coal - Orcutt-Smail Site*; 2) *Gurosik Coal - King Site*; and 3) *REM Coal - Truittsburg Site*.

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 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 the approval of previous Board annual reports (July 2009-June 2010; July 2010-June 2011; July 2012-June 2013; and July 2016-June 2017).

The Board will continue to provide advice and technical input to the Department regarding 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 SMCRA, 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:

Rachel Gleason, Chairperson
Duane Feagley
Tara Hazelwood
Darrel K. Lewis

- **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 PA 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
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 Jeffrey P. Pyle
The Honorable Pamela Snyder
The Honorable Patrick J. Stefano
The Honorable John Yudichak
Duane Feagley
Rachel Gleason
Darrel K. Lewis
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.

2017-2018 MAIN AGENDA TOPICS (Presented Alphabetically)

Alternative Bond System (ABS) Legacy Trust Agreements

PA DEP provided regular updates regarding the status of ABS Legacy Trust Agreements. These arrangements included bonds, fully-funded trusts and partially-funded trusts.

Annual Reports

The Board approved several of its annual reports, covering the periods July 2009-June 2010; July 2010-June 2011; July 2012-June 2013; and July 2016-June 2017.

Bonding

PA DEP provided the Board with its updated projections of the 2017 bond rates based on the average costs of recent reclamation projects. At the January 11, 2018 meeting, the proposed Land Reclamation Bond Rate Guidelines for 2018 were presented, indicating increases in some of the tasks and, decreases in others. The 2018 bond rates went into effect on April 1, 2018.

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 2017 calendar year, there were 29 projects that reclaimed 393.2 acres, at a cost of \$11,813,556.00. In the 2018 calendar year, two projects have been completed to date, reclaiming 27.2 acres at a cost of \$778,790.00. For future completions, there are 48 contracts to reclaim 1,404.5 acres, at a cost of \$86,506,138.00. For future awards, there are 74 contracts to reclaim 1,810.8 acres, at a cost of \$104,388,126.00.

Field Trip

The MRAB holds an annual field trip. The 2017 field trip was held on July 19, 2017. The acid mine drainage (AMD) treatment facilities visited during the field trip included: 1) *REM Coal – Orcutt-Smail Site*; 2) *Gurosik Coal – King Site*; and 3) *REM Coal – Truittsburg Site*. Feedback received from field trip participants was overwhelmingly positive.

Land Reclamation Financial Guarantees (LRFG)

PA DEP provided regular updates on this topic, in terms of the number of LRFG operators and permits, along with the amount of funding to underwrite the LRFG. Matters regarding the benefit of raising the LRFG limit and, the relationship between new permits and the LRFG were also discussed.

National Pollutant Discharge Elimination System (NPDES) Permitting

PA DEP 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, 2018, 846 draft NPDES permits have been sent to the US EPA; 388 of these were issued without comment, while 424 of these were issued with minor comments. Additionally, 5 more permits could be issued with comments (minor), while 18 more permits could be issued without comments. Lastly, there are 11 permits pending; 8 of these with a 30-day wait and, 3 with comments (minor).

Non-Regulatory Agenda

PA DEP provided regular status reports on Technical Guidance Documents (TGDs), and reporting forms of the Mining Program, including; 1) *the Engineering Manual*; 2) *Processing Completion Reports*; 3) *Bonding – Direct Submittal of Bonds*; 4) *Blaster’s License Suspension*; 5) *Surface Water Protection – Underground Bituminous Mining Operations*; 6) *Pre-Applications*; 7) *Civil Penalties*; 8) *Subchapter F*; 9) *Alkaline Addition*; and 10) *Biosolids*.

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.

Reclamation Fee Operation and Maintenance (O & M) Trust Account

PA DEP provided regular updates on the status of the Reclamation Fee Account, in terms of: 1) coal civil penalties collected and interest earned; 2) additional revenue transactions; and 3) LRFG premiums and interest.

Reclamation Fee Report

PA DEP shared a host of information regarding this report, including; 1) *LRFG program approval*; 2) *fund transfers*; 3) *long-term sustainable revenues*; 4) *comments from other parties (i.e., Penn Future and the PA Coal Alliance)*; and 5) *report changes (these were related to information regarding revenue projections, civil penalties and interest)*.

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.

Regulatory Updates

PA DEP shared regular status reports on a variety of regulatory packages including: 1) *Federal Office of Surface Mining (OSM) Program Consistency*; 2) *Water Supply Replacement*; and 3) *Blasting and Explosives (finalized December 2017)*.

Remining Financial Guarantees

PA DEP provided a historical overview of bond forfeitures, anticipated forfeitures, and their impacts on the Remining Financial Assurance Fund.

Revenues

PA DEP provided regular status reports on application fee revenues from two main sources: 1) *Surface Mining Conservation and Reclamation Act (SMCRA)*; and 2) *the Clean Water Fund (CWF)*.

Timbering

PA DEP met with the Board's RLT Committee on December 7, 2017 and January 11, 2018 to discuss timbering issues. Specific elements discussed included: 1) specific situations (i.e., timing; whether timbering coincides with a mining area; existence of Protection and Enhancement Plans; permittee control over timbering activities; whether timbering is being conducted to facilitate mining activities; whether timbering and mining activities have separate permits; whether a mining permittee benefits from timbering activities); 2) specific cases (i.e., Waters Mine; Curry Mine; Penn Virginia Mine); and 3) timbering and surface coal mining (i.e., the Keck Decision: *"Mining activities are defined very broadly to make it clear that it is not merely the actual removal of coal that must be permitted. To the extent that an operation involves coal removal, virtually everything that occurs before, during, and after that removal that is in any way "connected with" that removal must also be permitted."*).

Updates to Regulatory, Technical Guidance and Advisory Committee Policies

PA DEP provided an overview of three draft Technical Guidance Policies:

- ***Policy for the Development and Publication of Technical Guidance;***
- ***Advisory Committee Guidelines;*** and
- ***Policy for the Development and Review of Regulations***

The purpose in revising these documents is three-fold: 1) *to modernize the policies;* 2) *evaluate ways DEP can enhance the public's understanding of DEP's processes that solicit feedback;* and 3) *make changes based on recommendations provided by the Citizen's Advisory Council.* Revisions to these policies will conform with current practices, incorporate the use of modern technology, and explain DEP's streamlined processes.

Water Supply Replacement Regulations

PA DEP presented the Board with a general outline of items and areas in the Chapter 87 and 88 regulations pertaining to water supply replacement that will be revised. The revisions are based on the federal Office of Surface Mining's (OSM) program recommendations from 2005. Existing policy is already reflective of the program changes, especially regarding increased operation and maintenance costs of replaced supplies. The Board's RLT Committee discussed these during its meetings on January 11, 2018 and April 19, 2018.

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 2017 – June 2018

Board Chairperson	David Osikowicz
Board Vice Chairperson	Robert Burns
Annual Report Committee Chairperson	Rachel Gleason
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 2017 – June 2018

Board Member	Position	Alternate
David Osikowicz	Bituminous Surface Mine Operator	Rachel Gleason
Mark Snyder	Bituminous Surface Mine Operator	Darrel Lewis
Jack Chamberlin	Licensed Professional Engineer	Rachel Gleason
Robert Burns	Anthracite Surface Mine Operator	Duane Feagley
Sen. Patrick Stefano	General Assembly	Benjamin Wren
Sen. John Yudichak	General Assembly	Joanne Manganello
Rep. Jeffrey Pyle	General Assembly	Leda Lacomba
Rep. Pamela Snyder	General Assembly	Tara Hazelwood, Daniel Coleman
John St. Clair	Citizens Advisory Council	Lee Ann Murray
Mark Killar	Citizens Advisory Council	Lee Ann Murray
Cynthia Carrow	Citizens Advisory Council	Lee Ann Murray
Terry Dayton	Citizens Advisory Council	Lee Ann Murray
Robert Hughes	State Conservation Commission/Eastern PA Coalition for Abandoned Mine Reclamation (EPCAMR)	Andy McAllister

Appendix D

MEETING DATES DURING THE REPORTING PERIOD July 2017 – June 2018

Date	Location	Meeting
April 19, 2018	Harrisburg, PA	Full Board
April 19, 2018	Harrisburg, PA	Regulation, Legislation and Technical Committee
January 11, 2018	Harrisburg, PA	Full Board
January 11, 2018	Harrisburg, PA	Regulation, Legislation and Technical Committee
December 7, 2017	Harrisburg, PA	Regulation, Legislation and Technical Committee
October 19, 2017	Harrisburg, PA	Full Board
July 20, 2017	Knox DMO	Full Board (Annual Field Trip Meeting)

Note: All meetings were offered in both live and conference call/Web-Ex formats.

Appendix E

MRAB COMMITTEES FOR THE REPORTING PERIOD July 2017 – June 2018

Annual Report Committee

Rachel Gleason, Chairperson Pennsylvania Coal Alliance 212 North Third Street Suite 102 Harrisburg, PA 17101 Tel: 717-233-7900, ext. 24	Duane Feagley PA Anthracite Council PO Box 138 Pottsville, PA 17901 Tel: 717-737-9825
Darrel K. Lewis State Industries, Inc. P.O. Box 1022 Kittanning, PA 16201 Tel: 724-548-8101	Tara L. Hazelwood PA House of Representatives 104A East Wing PO Box 202052 Harrisburg, PA 17120-2052 Tel: 717-783-0411

Reclamation Committee

Duane Feagley, Chairperson PA Anthracite Council PO Box 138 Pottsville, PA 17901 Tel: 717-737-9825
Robert E. Hughes EPCAMR 101 South Main Street Ashley, PA 18706 Tel/Fax: 570-371-3522
Andy McAllister (Alternate) WPCAMR Green Forge Building 226 Donohoe Road, Suite 110 Greensburg, PA 15601 Tel/Fax: 724-832-3625

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 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>Duane Feagley (Alternate) PA Anthracite Council PO Box 138 Pottsville, PA 17901 Tel: 717-737-9825</p>	<p>The Honorable Pamela Snyder PA House of Representatives 112 Irvis Office Building PO Box 202050 Harrisburg, PA 17120-2050 Tel: 717-783-3797 Fax: 717-772-3605</p>
<p>Rachel Gleason (Alternate) Pennsylvania Coal Alliance 212 North Third Street Suite 102 Harrisburg, PA 17101 Tel: 717-233-7900, ext. 24</p>	<p>The Honorable Patrick J. Stefano Senate of Pennsylvania 183 Main Capitol Senate Box 203032 Harrisburg, PA 17120-3032 Tel: 717-787-7175</p>
<p>Darrel K. Lewis (Alternate) State Industries, Inc. P.O. Box 1022 Kittanning, PA 16201 Tel: 724-548-8101</p>	<p>The Honorable John Yudichak Senate of Pennsylvania 458 Main Capitol Senate Box 203014 Harrisburg, PA 17120-3014 Tel: 717-787-7105 Fax: 717-783-4141</p>
<p>David D. Osikowicz Original Fuels, Inc. P.O. Box 343 Punxsutawney, PA 15767 Tel: 814-938-5171 Fax: 814-938-5008</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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