

MINUTES
MINING AND RECLAMATION ADVISORY BOARD (BOARD)
October 24, 2019

VOTING MEMBERS OR ALTERNATES PRESENT:

David Osikowicz (Member)
Jack Chamberlin (Member)
John St. Clair (Citizens Advisory Council (CAC) – Member)
Tara Hazelwood (PA House - Alternate)
Rachael Gleason (PA Coal Association (PCA) - Alternate) (via Skype)
Darrel K. Lewis (Alternate)
James Schmid (CAC – Member)
Benjamin Wren (PA Senate - Alternate)
Glendon King (PA House - Alternate)
Duane Feagley (PA Anthracite Council (PAC) - Alternate)

OTHER ATTENDEES

Gerald “Randy” Jackson (DEP – Bureau of Abandoned Mine Reclamation (BAMR))
Amy Berrios (DEP – Office of Active and Abandoned Mine Operations)
Dan Sammarco (DEP – Bureau of District Mining Operations (BDMO))
Sam Faith (DEP – BDMO)
Bill Allen (DEP – Bureau of Mining Programs (BMP))
Bruce Carl (DEP – BMP)
Sharon Hill (DEP – BMP)
Gregory Greenfield (DEP – BMP)
Eric Oliver (DEP – BMP)
Ross McMann (DEP – BMP)
Jennifer Gulden (DEP – BMP)
Timothy Gilbert (DEP – BMP)
Daniel E. Snowden, D.Ed. (DEP - BMP/Board Liaison)
Joe Iole (DEP – Bureau of Regulatory Counsel)
Kate Cole (DEP – Policy Office)
Jeff Painter (PA Game Commission)
LeeAnn Murray (PA House Democratic Caucus)

MEETING CALLED TO ORDER/INTRODUCTIONS

The meeting was called to order at approximately 10:00 a.m. Board members and DEP personnel introduced themselves.

APPROVAL OF MINUTES

The minutes from the last meeting were approved.

CORRESPONDENCE

Mr. Glendon King was appointed as the alternate for Representative Tommy Sankey. The Board also sent thank you letters to everyone who contributed to the successful July field trip and quarterly meeting.

COMMITTEE REPORTS

The Board's Reclamation Committee met on September 25, 2019 to discuss the possible modification of the grading bond rates with 4 categories for grading bond rates (i.e., < 500': \$.90/cubic yard; 500' to 1000': \$1.50/cubic yard; 1000' to 1 mile: \$2.26/cubic yard; and > 1 mile: RS Means or Standard Reference). BMP considered this possible modification by experimenting with these grading bond rates, with results presented at the Board's meeting.

PRESENTATIONS

Coal Mining Program Updates

Mr. Carl provided updates to the Board regarding the coal mining program:

- National Pollutant Discharge Elimination System (NPDES) Permitting: Mr. Carl presented the Board with the status of many of the NPDES permitting issues. The United States Environmental Protection Agency (US EPA) is no longer requiring submission of the Checklist with the NPDES permit application review. The WETT sampling analysis has been put on hold, pending funding.

Mr. Carl also provided the number of draft permits (as of September 2019) which were sent to the US EPA, and the number of those permits which had comments. In general, the US EPA continues to comment or object to fewer permits.

- Initiatives: As of the day of the meeting, there were 49 Notice of Intent to Explore ePermits submitted, showing a consistent increase in the number of registrations. BMP continues to refine the mobile inspection process, including the distribution of inspection reports.
- Trust Agreements/Bond Status: The Board was provided details on a variety of items regarding this topic:
 - Number and value of total agreements (between December 2015 and August 2019), total (i.e., bonds, fully-funded trusts and partially-funded trusts (including Alternative Bond System (ABS) sites)).
 - The amount of partially and fully funded trusts have remained steady since last presented to the Board.
- Land Reclamation Financial Guarantees (LRFG): Mr. Carl provided details on the increase of LRFG permits and amount underwritten, noting that the total underwritten amount, as of the morning of the meeting, was \$47.7 million.

- Applications: Ms. Sharon Hill provided the Board with a detailed breakdown of application data, including the number of applications by each DMO, by application type, and also the time to process surface permit and NPDES renewals. All figures are available through the meeting materials on the website.
- Regulatory Agenda: Ms. Hill reported on developments with the following items:
 - Federal Office of Surface Mining (OSM) Program Consistency is scheduled to be presented for review at the November Environmental Quality Board (EQB) meeting as a final rulemaking.
 - Water Supply Replacement, Chapters 87 and 88 has been published for comment, with the comment period ending December 2, 2019.
- Non-Regulatory Agenda: Several documents continue to be in the draft stage, including Subchapters F and G, Liners (Caps), and Surface Water Protection – Underground Bituminous Coal Mining Operations. Comments were received on the Civil Penalties and Alkaline Addition documents.
- Reclamation Fee Operations and Maintenance (O & M) Trust Accounts: The Board was shown the current information for the Reclamation Fee Account, including Coal Civil Penalties, LRFG Premiums, the current expenditures as of June 30, 2019, and the projected expenditures for FY 19-20. The BMP is continuing to research the actuarial study regarding the rec fee account and should have further information to present the Board at the next meeting.
- Application Fee Revenues: Mr. Greenfield provided revenue figures for the Surface Mining Conservation and Reclamation Act (SMCRA) and Clean Water Fund (CWF) for the fiscal years between 2012 to 2019 (as of September 30, 2019).

Bond Rate Guidelines

Mr. Carl provided the Board with current numbers for grading and revegetation costs on 2020 bond rate guidelines. He discussed grading rates using low bid values vs. the three lowest bid values, also using the number of bids based on number of project bids. He also provided the projected 2020 values based on current values.

Updates from BAMR

Mr. Jackson updated the Board on the most recent current projects by BAMR, as well as the Abandoned Mine Lands (AML) projects that are currently being constructed/reclaimed and, the future projects the Bureau is advancing through the design phase. A complete list of the projects was provided in the Board's meeting materials.

The Board was also updated on the AML Program Reauthorization. Federal bill H.R. 4248 (Amendments to the Surface Mining Control and Reclamation Act (SMCRA)) would do the following: 1) allow for the collection of fee revenue from active coal mining operations to fund federal AML programs to continue until 2036; 2) reimburse States for AML fees sequestered since

2013; and 3) require the Office of Surface Mining Reclamation and Enforcement (OSMRE) to reimburse States and tribal governments for costs of addressing AML emergencies. The authority to collect this fee is set to expire in September of 2021, without further extensions from Congress. The loss of that revenue would severely impact Pennsylvania's AML Program.

Updates from the District Mining Offices

Mr. Sammarco updated the Board on the current status of vacancies and workloads in the District Mining Offices. Key management positions continue to be filled, and open positions continue in the hiring process. The District Mining Offices also continue to address permit applications to ensure review in a timely manner and conduct weekly meetings regarding overdue permits.

OPEN TIME

Meeting Dates for 2020

The Board set the meeting dates for the upcoming year. The Board will meet on January 23, April 2, July 22-23, and October 22, 2020. The location of the July meeting will be announced in the future.

Adjournment/Next Meeting

The Board adjourned its meeting at approximately 11:30 a.m. The Board will meet again on January 23, 2020 at 10:00 a.m., in Conference Room 105 of the Rachel Carson State Office Building, 400 Market St, Harrisburg PA 17105.