

MINUTES
MINING AND RECLAMATION ADVISORY BOARD (BOARD)
January 19, 2017

VOTING MEMBERS OR ALTERNATES PRESENT

Duane Feagley (PA Anthracite Council - Alternate)
Joanne Mangaello (PA Senate - Alternate)
Tara L. Hazelwood (PA House of Representatives - Alternate)
Jonathan Lutz (PA House of Representatives - Alternate)
Katie Hetherington-Cunfer (CAC – Alternate))
Rachel Gleason (PA Coal Alliance - Alternate)
David Osikowicz (Original Fuels, Inc. – Member, Board Chairperson)
Benjamin Wren (PA Senate - Alternate)
Robert Hughes (State Conservation Commission - Member; via conference call)

OTHER ATTENDEES

Bill Allen (DEP – Mining Programs)
Thomas Callaghan (DEP – Mining Programs)
Bruce Carl (DEP – Mining Programs)
Josie Gaskey (PA Aggregates and Concrete Association (PACA))
Jennifer Gulden (DEP – Mining Programs)
Brian Bradley (DEP – Bureau of Abandoned Mine Reclamation (BAMR))
Shuvonna Perry (DEP – Mining Programs)
Paul Pocavich (DEP – Mining Programs)
Daniel E. Snowden, D.Ed. (DEP – Mining Programs; Board Liaison)
Jeff Painter (PA Game Commission)
Richard Fox (PA House)
Leda Lipton (PA House)
Dan Coleman (PA House)

MEETING CALLED TO ORDER/INTRODUCTIONS

Mr. Osikowicz called the meeting to order at approximately 10:00 a.m. Board members, DEP personnel and visitors introduced themselves.

APPROVAL OF MINUTES

The minutes were approved without changes.

CORRESPONDENCE

Mr. Osikowicz stated that no correspondence was received by the Board since its last meeting.

COMMITTEE REPORTS

There were no committee reports.

PRESENTATIONS

Technical Deficiencies Letters

Sharon Hill presented a summary of a sample of technical deficiencies letters from the DMOs in order to determine issues related to delays in permit approval, in order to: 1) assess if the deficiencies were serious, significant or insignificant and; 2) to look at consistency and appropriateness of comments across DMOs. The conclusions were that of the 958 (coal permit) comments, 144 were serious enough to reject the application. These serious comments occurred in 86% of the applications. The deficiencies could be categorized into “clarifications”, “missing information” and “errors”. Permit application quality varied across the board, but pre-applications significantly reduced cited deficiencies. The Bureau of Mining Programs (BMP) was able to determine a few common deficiencies that will likely be reduced through the e-permitting process.

Acting Secretary McDonnell

Acting Secretary Patrick McDonnell introduced himself to the board. He thanked the board for the following: 1) its continued work with the Department; 2) facilitating conversation; and 3) its continued participation. He mentioned that the Policy Office would be reviewing procedures regarding public participation, including advisory boards. He concluded by stressing the value of the e-permitting process to the Department, and to those who would utilize it.

Coal Mining Program Updates

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

- Non-Regulatory Agenda: The Engineering Manual will soon be put forth for public review. The comment period is expected to be longer than typically provided, due to the size of the manual.
- National Pollutant Discharge Elimination System (NPDES) Permitting: Mr. Allen reported that 374 of 722 draft permits sent to EPA received comments or objections from EPA. He also made note of the following outstanding issues:
 - Checklist
 - Remaining Total Maximum Daily Loads (TMDLs)
 - Sufficiently Sensitive Methods
 - Monthly calls to EPA
 - Whole Effluent Toxicity Testing (WETT) comments from the EPA are still pending.
 - A trend of increasing interest by the EPA regarding NPDES permits.

- Historical Application Progress and the Permit Decision Guarantee (PDG): Mr. Allen mentioned the following matters regarding this topic:
 - Number of coal-related permit applications disposed, along with those remaining for action and their specific District Mining Office locations.
 - On-time percentages under the PDG program for District Mining Offices.

- Trust Agreements/Bond Status: Mr. Allen provided details on the following matters regarding this topic:
 - Number of total agreements (between December 2015 and December 2016; i.e., bonds, fully-funded trusts, and partially-funded trusts - including Alternative Bond System (ABS) sites).
 - Values of the aforementioned agreements (between December 2015 and December 2016)

- Land Reclamation Financial Guarantees (LRFG): Mr. Allen mentioned the following matters regarding this topic:
 - Continuing increase of LRFG operators and permits.

- Reclamation Fee O & M Trust Accounts: Mr. Allen focused upon the following matters regarding this topic:
 - Greater discussion regarding the management of civil penalties during the April meeting.
 - The Board was shown the current information of the Reclamation Fee O & M Account.
 - A joint stipulation of settlement and dismissal was filed on January 18, 2017. This resolved a Federal lawsuit relating to the oversight of Pennsylvania's bonding program under SMCRA. The lawsuit had been filed against DEP by the Pennsylvania Federation of Sportsman's Clubs and other outdoor recreational groups.

- Regulatory Agenda: Mr. Allen mentioned developments with the following items:
 - Remining Regulations
 - OSM Program Consistency
 - Water Supply Replacement Regulations (25 Pa. Code, Chapters 87 and 88)

- Blasting and Explosives Regulations (25 Pa. Code, Chapters 210 and 211)
- Application Fee Revenues: Mr. Allen mentioned revenues from the following funds (between FY 2012-2013 and FY 2016-2017 (to date)):
 - Surface Mining Conservation and Reclamation (SMCRA) Fund.
 - Clean Water Fund (CWF)

Bond Rate Guidelines

Mr. Carl reported on: 1) reclamation bond rate guidelines for the 2016 calendar year; and 2) abandoned mine reclamation project costs for grading, revegetation, seed bed preparation and seed. He also reported on the final rates for 2017:

- Grading (2016):
 - There were 7 reclamation projects covering 1,800,269 total cubic yards for grading, with costs ranging between \$0.66 per cubic yard and \$1.25 per cubic yard.
 - The low-bid average grading costs ranged between \$0.91 per cubic yard and \$1.15 per cubic yard, with a weighted average cost of \$1.03 per cubic yard.
 - The overall weighted average grading cost between 2014 and 2016 was \$0.95 per cubic yard.
- Revegetation (2016):
 - There were 10 reclamation projects covering 290.8 acres for revegetation with costs ranging between \$808.63 and \$2,838.65 per acre.
 - The overall weighted average revegetation cost was \$2,129.80 per acre.
- Mulch, Seed Bed Preparation and Seed (2016):
 - Mulch Costs: \$886.72 per acre, with 3-year weighted average cost of \$868.05 per acre.
 - Seed Bed Preparation Costs: \$310.07 per acre, with a 3-year weighted average cost of \$270.67 per acre.
 - Seed Costs: \$250.95 per acre, with a 3-year weighted average cost of \$281.85 per acre.
- Final Rates for 2017:
 - Grading over 500 ft. increased from \$1.50 to \$1.55 per cubic yard.
 - Revegetation cost increased from \$1,900 to \$1,950 per acre.

- Stage 3 maintenance bond for pastureland/hay increased from \$500 to \$520 per acre.
- Other reclamation tasks remained the same or decreased slightly.
- Final rates will be published in the *Pennsylvania Bulletin* in February or March 2017 with an effective date of April 1, 2017.

BAMR Status Report/Abandoned Mine Land (AML) Grant Funding Status

Mr. Bradley provided a summary of the current AML program grants, including the 2016 AML Pilot Program Grant (\$30 million) and the 2017 AML grant that was announced on January 6, 2017 (approximately \$33.6 million). He also updated the Board on the following matters; 1) AML projects completed by the Bureau of Abandoned Mine Reclamation in calendar years 2015 and 2016; 2) AML projects that are currently being constructed/reclaimed; and 3) future projects that BAMR is advancing through the design phase. A complete list of the projects was provided in the Board's meeting materials.

NEW BUSINESS

Annual Reports

BMP Director Thomas Callaghan submitted for the board's attention the draft versions of MRAB Annual Reports from the 2009-2010, 2010-2011, and 2012-2013 periods. The draft reports will need to be finalized and approved by the Board.

Adjournment/Next Meeting

The Board adjourned its meeting at approximately 11:30 a.m. The Board will meet again on April 6, 2017 in Harrisburg (Rachel Carson State Office Building, Conference Room 105).