

DRAFT

MINING AND RECLAMATION ADVISORY BOARD (MRAB)

**Thursday, January 8, 2004
Rachel Carson State Office Building
10:00 a.m.**

Members/Alternates in attendance: Fred Wolf (Chair), David Mankamy (Member), Steve Shrawder (Member), Sue Wilson (Alternate), Duane Feagley (Alternate), Richard Fox (Alternate), Stan Geary (Alternate), Margaret Urban (Member), Janis Dean (Alternate), David Osikowicz (Member), Wayne Crawford (Alternate), George Ellis (Alternate), Sue Germanio (Alternate) and Walter Heine (Member).

Others in attendance: Brian Bradley (DEP), Michael Smith (DEP), Billie Ramsey (ARIPPA), Mike Terretti (DEP), Roger Hornberger (DEP), Denise Uzupis (DEP), Mike Menghini (DEP), Rod Fletcher (DEP), Joe Schueck (DEP), Bruce Golden (WPCAMR), Bill Shakely (DEP), Marc Roda (DEP), Jeff Kost (Pa. Game Commission), Joe Pizarchik (DEP), Joe Sieber (DEP), Nevin Strock (DEP), Mike Steiner (DEP), Keith Brady (DEP), Scott Sklenar (Exelon), Dane Bickley (Exelon), Rick Sands (URS Corp.), Curtis Kratz (Penn E & R), Karl Lasher (DEP), Scott Roberts (DEP) and Lara Logan (DEP).

Meeting Called to Order

MRAB Board Chairman Fred Wolf called the meeting to order at 10:05 a.m. Chairman Wolf welcomed everyone and asked that all present introduce themselves.

A motion was made by Richard Fox, seconded by Dave Osikowicz, and approved by the Board to accept the minutes of the October 23 meeting.

Committee Reports

The *Policy Committee* had no report.

The *Reclamation Committee* had no report.

The *Regulation, Legislation and Technical Committee* (Dave Osikowicz, Committee Chair):

Mr. Osikowicz spoke on behalf of the Regulation, Legislation and Technical Committee. Stan Geary solicited comments from committee members on House Bill 3531. Mr. Geary explained that the Bill is a Federal Transferable Tax Credit Bill, which extends the coverage for existing facilities to get tax credits for another ten years, and to give coverage to new facilities that come online. The amount is \$1.50/million BTUs. The facilities must meet a requirement of

burning fuel that is 75% waste coal. The incentive for this Bill is to make the burning of waste coal profitable for the facilities.

Janis Dean, alternate for the Citizens Advisory Council, asked how the amount of \$1.50 was decided. Mr. Osikowicz said they didn't know. Ms. Dean asked who exactly "eligible facility" targeted, and if it excluded anyone because of the requirement of 75% qualified waste coal. Mr. Geary said that the reason for the requirement was to make sure that the facility is indeed a facility dedicated to the use of coal waste. Billie Ramsey of ARIPPA added that though ARIPPA has not been involved in this legislation, they have been asked to participate in lobbying efforts. If this legislation were enacted, a company could burn alternative fuels that are not waste coal and still qualify for the credit. Steven Shrawder asked if the bill still provided for the UMW Combined Benefit Fund sharing? Mr. Geary answered that it was in an earlier draft of the bill, but when the bill was brought before the legislature in Washington, it was not in the current bill. There is, however, a possibility it could be added back into the current bill. Referring to page 6 of Mr. Geary's provided document, Ms. Dean asked about the phrase "which is not less than a 15 year supply of qualified waste coal," wondering why the time period was 15 years. Ms. Ramsey answered that under contract, a facility must have a certain amount of coal. Ms. Dean also referred to the phrase "service not more than 42 months" on page 6, and asked about facilities already in service. Mr. Geary said that the intent of the Bill was to extend time for facilities already qualified.

Mr. Wolf asked Ms. Ramsey why ARIPPA has not yet taken a position on the Bill. Ms. Ramsey answered that the Bill was developed independently of membership.

Mr. Osikowicz moved to give the MRAB's support of the legislation. David Mankamyier seconded the motion, and it was unanimously approved.

Key Obligation: Stan Geary will draft a letter for the Chairman's signature, giving the Board's support for the Bill.

Ad Hoc Committee on Federal SMCRA Reauthorization (Sue Wilson, Committee Chair): Scott Roberts, Deputy Secretary for Mineral Resources Management, spoke on behalf of the Ad Hoc Committee. At the October 2003 meeting, a motion was passed for the Board to send a letter to Senators Specter and Santorum giving support of this bill. Mr. Wolf sent those letters. Mr. Roberts gave a brief history of the bill, saying that the original bill put forth by Rep. Cubin of Wyoming in September 2003 has now been amended slightly by Rep. Cubin and Rep. Rahall of West Virginia. Mr. Roberts no longer feels that the Commonwealth can support the bill in its current form. There would be a 20% reduction in fees paid, and the fees were extended 15 years to 2019. The reason for the time period of 15 years was to use the fees to complete the Priority 1 and 2 land reclamation sites. The inventory numbers were calculated in the 1980s, and not adjusted for the 15 years of inflation since then or for the 15 years of inflation until 2019. The money would trickle to the states during a period of 40 or 50 years, and the interest used would be for the UMW Combined Benefit Fund. The bill removed the 1992 remaining incentives and also did not touch the allocation formula. As production has shifted from

eastern states to western states, the money will go to the states with the highest production rates. These states, however, collectively have less than 2.5% of the nation's abandoned mine lands. The bill was presented as an amendment to the Energy Bill but was not included. The Senate has agreed to discuss the issue in 2004.

Mr. Wolf reminded the Board that letters were sent to Senators Santorum and Specter on this subject (a key obligation from the October 2003 meeting). Ms. Dean noted that the CAC sent a letter to Washington supporting the issue.

Sue Germanio asked when the reauthorization is due by. Mr. Roberts answered that September 30, 2004 is when the fee expires. OSM is preparing a draft regulation to continue a fee of some type if the reauthorization isn't approved.

Mr. Roberts then introduced Michael Terretti, current District Mining Manager of the Greensburg District Office, as the new Director of District Mining Operations. His new position was effective on January 10.

Orphan Mine Discharge Task Force

Joe Schueck of the Bureau of Abandoned Mine Reclamation spoke on behalf of the Task Force. The Task Force passed 19 resolutions regarding DEP's responsibilities dealing with Orphan Mine Discharge. The list of these resolutions is posted on the MRAB's webpage. Mr. Schueck went over the list item by item and took questions, and presented DEP's preliminary plans in response to each specific resolution. (The resolutions are attached).

George Ellis of the Pennsylvania Coal Association asked about the acid mine drainage treatment formula in resolution 9. Mr. Schueck said that OSM had created a software package to help make site-specific cost estimates. Mr. Ellis pointed out that in the OSM formula, the default numbers were higher than actual cost figures. Mr. Schueck said that it is not necessary to always use the default numbers, and that site-specific figures should be used. Mr. Ellis also had a question about resolution 11, which referred to a market study on a market-based approach to mine water treatment and the sale of clean water. Mr. Schueck said that the United Mine Worker Career Center prepared a proposal to have their employees search the database, look at acid mine sites, and do the actual work. Mr. Ellis asked if the Board could get a copy of this proposal. Mr. Schueck said he would check into it.

Mr. Geary referred back to resolution 9, asking if alkaline discharges would create a problem with the OSM formula. Mr. Schueck said he felt the formula should still work, and Roger Hornberger, District Mining Manager at the Pottsville District Office, agreed.

In reference to resolution 1 (economic metals recovery), Mr. Wolf passed around a news clipping from the Clarion News, provided by Karl Lasher of the DEP Press Office. The article discussed a treatment facility that sold iron collected in water clean-up as pigment for paints and other items. Mr. Wolf also asked about the Shannopin Mine Discharge. Mr. Schueck answered that the

project is slightly behind because of the large amounts of rain during the summer and fall, but construction on the facility is expected to be completed in the spring of 2004. Mr. Mankamyer asked if there are other mine pools in that vicinity that perhaps DEP is unaware of. Mr. Schueck said no.

EPA's Effluent Limitations Guidelines for Coal Remining/BMP-Only Permits

Mr. Hornberger and Michael Smith, District Mining Manager at the Moshannon District Office, gave a presentation on the new EPA guidelines. Mr. Hornberger said that the IMCC Remining Task Force, OSM and EPA developed a regulatory package that EPA published in January 2002. Pennsylvania's regulations were originally ahead of the federal regulations. In 1987, the Rahall Amendment to the federal Clean Water Act was enacted, and the state regulations were never changed. The EPA regulations contain a key provision, the BMP-Only Permit. Similar provisions are not in the Pennsylvania regulations. The proposal is to make a minor modification to the state remining regulations to include this BMP-Only Permit. This proposed modification would create a permit that is BMP-based and not based on numeric limits. Mr. Hornberger referred to the Federal Register of January 23, 2002.

Mr. Smith gave a Power Point presentation in which he described a survey of 109 remining sites with 236 pre-existing discharges. This survey looked at baseline and post-remining data, comparing a year's worth of data. Less than 2% of the sites had worsened water quality, and the acidity, aluminum, iron and manganese amounts decreased. The new regulations say that where you have a problem with baseline monitoring, you can apply for a BMP-Only Permit. Situations where this applies are where acid mine drainage has gone directly to a receiving stream, where many diffused seeps are apparent, where water is leaving a steep area, and where there are large discharges.

Mr. Ellis made a motion recommending that DEP pursue a regulatory change to implement BMP-Only Permit provisions of EPA's effluent limitations guidelines for coal remining. Motion seconded by Mr. Osikowicz and unanimously passed.

Energy Development

Daniel Desmond, Deputy Secretary for the Office of Energy and Technology Development (OETD), spoke about some of the things that his newly-formed office was working on. The prime objective is to keep energy money in Pennsylvania. Pennsylvania sends out the equivalent of the state budget for oil and natural gas purchases.

Mr. Desmond said that DEP is looking for ways to find energy that is cleaner and on a smaller scale. The OETD recently created a public finance arm that can be used for grants, loans and joint venture equity, and also has a tax exempt bonding capacity. This can work with developers of Pennsylvania energy resources to work on large-scale projects. A new grant program, Energy Harvest, has \$5 million worth of grants for everything from waste coal and coal resources to energy from agriculture. OETD received \$46 million of applications for this grant.

Mr. Desmond said that Secretary McGinty is also interested in putting an actual carbon/nutrient trading bank in Pennsylvania, an economic mechanism where the owners of lands that can sequester various bankable credits and can derive some economic benefits from this sequestration. The title of this program is M2S2, which stands for Multi-Media Soil Sequestration.

BAMR Projects/Status Report

Brian Bradley of BAMR gave the current status of the different BAMR projects, reporting the statistics for the months of October, November and December.

Exelon Mine Water Demonstration Project

Rick Sands of the URS Corporation spoke on the Exelon Mine Water Demonstration Project. This project promotes source water protection of regional significance, and is the first step in a public-private partnership addressing AMD. It studies the overall effects on aquatic biological life, water quality, physical features, and the community itself. The project centers around Perkiomen Creek, the Schuylkill River, Still Creek and East Norwegian Creek.

The goals of the project are to obtain 14.4 million gallons of water per day for four to six months, to determine if the water quality remains acceptable, to monitor the effects of the mine water on the Schuylkill River and drinking water intakes, to use Still Creek Reservoir to help achieve quantity and quality goals, to reduce Delaware Diversion flows, and to make an outreach into the community and to the stakeholders.

The Delaware River Basin Commission (DRBC) Docket was approved on June 26, 2003, and the Operating & Monitoring Plan was approved on July 9, 2003. Pumping began July 11, 2003 and ended on October 16, 2003. One year extension of demonstration was received 12/03, and the draft interim report is expected to be completed February 29, 2004.

The actual maximum daily pumping rate was 11.9 MGD, with an average of 8.5 MGD. The pool level was decreased 86 feet. Numbers of fish and benthic species in the Schuylkill River increased from early July.

Conclusions: No problems with subsidence or groundwater wells, or depletion of surface water. The quality was relatively consistent, with no surprises. The quantity was below expectation, but that will be verified with recovery test. Old equipment needs repaired, and the pump level must be lowered.

Mine pool recovery will be observed, and the monitoring data/economics will be reviewed.

Biosolids General Permits

Denise Uzupis of the Office of Water Management spoke on proposed revisions to the biosolids general permit. The revisions began in 2002, and the proposed changes were published in November 1, 2003, *Pa. Bulletin*. Comments were taken until December 1, 2003. Prior publication had included an owner control plan requirement, which many people found controversial. This requirement was removed. One of the changes was rebuttable presumption for post-lime treated materials (wastewater solids that were dewatered with lime added as a treatment mechanism). In some cases, odor resulted because of the lime materials. If a facility

were to cause extra odors, they would be subject to extra enforcement. Extra storage guidelines were also added to the permit.

The Office of Water Management received 18 comments, and most of them said that rebuttable presumption is unfair and prejudicial without cause. The comments also focused on the odor situation. Many comments said that there was no objective way to categorize and evaluate odors, nor the technology necessary to abate potential odor problems. Research is still ongoing on this subject.

The existing permit would have expired but has been extended to June 2004. The Office of Water Management hopes to get the changes approved and published before that time.

Walter Heine asked if the local governing bodies were part of the system when it came to extreme heavy use of manures at factory farms. Ms. Uzupis replied that the permits give permission for the facility to land apply in Pennsylvania as long as it meets requirements. The local coordinators are given a chance to comment on application requirements.

New Business

Joe Pizarchik of BMR gave an update on the proposed revisions to Chapter 86.6 of the mining regulations relating to the extraction of coal incidental to government-financed highway and other construction. He said that the changes have been fine-tuned and are going to the Environmental Quality Board at their April meeting. The Board had no concerns or questions on the draft final rulemaking changes.

The next meeting will be on April 22, 2004. Bruce Golden announced the Abandoned Mine Reclamation Conference at Indiana University of Pennsylvania, June 9-12, 2004. He asked if any MRAB members might be interested in attending. Nevin Strock announced the Coal Combustion By-Products Forum at the Marriott Hotel, Harrisburg, May 4-6, 2004.

Fred Wolf moved to adjourn the meeting, and Margaret Urban seconded the motion. The meeting was adjourned at 2:05 p.m.

Attachment