

REVISED LETTER TO LEGISLATURE REGARDING ABS FORFEITED SITES

Dear

The Mining Reclamation Advisory Board (MRAB) is seeking your assistance to address an urgent funding deficit for treating acid mine discharges from sites forfeited between 1982 and 2001. At that time, our Department of Environmental Protection (DEP) used an Alternate Bonding System (ABS), requiring bonds set below the full cost of reclamation supplemented by a \$100 per-acre fee for active surface mines. **These ABS-forfeited sites are NOT covered by the Federal Abandoned Mine Lands (AML) Fund for sites abandoned or forfeited through 1977.**

The DEP converted to a full-cost Conventional Bonding System (CBS) in 2001, under which bonds must cover complete reclamation. Believing the full-cost coverage made supplementary fees unnecessary, a rulemaking was proposed in August, 2006, to terminate the \$100-per-acre fee.

Concurrently, litigation challenging the adequacy of the prior ABS formula determined that the system was inadequate, and we must now demonstrate sufficient funding to completely reclaim forfeited sites and treat their discharges into the future. Thereafter, the Federal Office of Surface Mining disapproved terminating the \$100-per-acre fee, even though it is paid by current operators who post full-cost bonds and are not liable for the ABS sites.

It has been estimated that costs could exceed \$50 million and increase over time for existing and potential additional sites. The \$100 fee, based on number of acres permitted, is not consistently reliable. Therefore, we need your help to ensure permanent funding for ABS discharges, as follows:

1. Provide a separate, annual budget line item to sustain a new “ABS Legacy Sites Trust,” created with an existing \$4.6 million from forfeited bonds, which would earn interest over time and also could receive interest from the Surface Mine Fund and other monies (penalties, donations, etc.);
2. Enact legislation requiring future premiums paid for conversion assistance bonds to be used as funding for ABS forfeited sites. The General Assembly authorized these bonds to help mine operators transition to the current full-cost, conventional bonding system.

We graciously ask for your help and await a reply, if you wish, from your own honorable representatives to this Board.

Sincerely yours,

ccs: Legislative Leaders and
Appropriations and Environmental
and Energy Committee Chairmen

David Osikowicz, Chairman
Mining Reclamation Advisory Board