

D R A F T

MINING AND RECLAMATION ADVISORY BOARD (MRAB)

**Thursday, October 23, 2003
Rachel Carson State Office Building
10:00 a.m.**

Members/Alternatives in attendance: Fred Wolf (Chair), Jack Chamberlin (Member), David Mankamyer (Member), Steve Shrawder (Member), David Strong (Member); Sue Wilson (Alternate), Burt Waite (Member), Bruce Tetkoskie (Alternate), Duane Feagley (Alternate), Richard Fox (Alternate), Stan Geary (Alternate), Patricia Krommes (Alternate) and Walter Heine (Member).

Others in attendance: Steve Jones (DEP), Rod Fletcher (DEP), Joe Schueck (DEP), Bruce Golden (WPCAMR), Bill Shakely (DEP), Marc Roda (DEP), Bill Capouillez (Pa. Game Commission), Jeff Kost (Pa. Game Commission), Joe Pizarchik (DEP), George Rieger (OSM), Mick McCommons (DEP), Joe Sieber (DEP), Nevin Strock (DEP), Mike Steiner (DEP), Keith Brady (DEP), Curtis Kratz (Penn E & R), George Witmayer (Penn E & R), Bill Derby (Wellington Development, Inc.), Chris Colbert (AMD Reclamation, Inc.), Paul Linnan (DEP), Harold Miller (DEP), Bill Allen (DEP), Karl Lasher (DEP), John Meehan (DEP), Scott Roberts (DEP) and Lara Logan (DEP).

Meeting Called to Order

MRAB Board Chairman Fred Wolf called the meeting to order at 10:00 a.m. Chairman Wolf welcomed everyone and asked that all present introduce themselves.

A motion was made by Sue Wilson, seconded by Jack Chamberlin, and approved by the Board to accept the minutes of the July 10 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):

Stan Geary of the Pennsylvania Coal Association (PCA) spoke on behalf of the Regulation, Legislation and Technical Committee. He reported that House Bill 275, the Abandoned Mine Management and Mine Reclamation Tax Credit Act, was introduced to the Finance Committee by Representative Stevenson in February. One of the MRAB's recommendations contained in DEP's Remining Incentives Report to the legislature was that House Bill 275 should be enacted. This bill will create a \$2/ton tax credit for coal production from remining operations, including

recovery of coal from waste piles. Also, if there is minimal or no coal, the tax credit will be the total cost of the reclamation. The tax credits can be used to offset any state-imposed tax.

Mr. Geary also discussed the current status of the beneficial use of coal ash. Dante's Army, a citizen's group in opposition to the use of river dredge as fill in abandoned surface mines, has also voiced their opposition to the use of coal ash. The Joint Conservation Committee held a public hearing in Tamaqua on July 9. The Citizens Advisory Council (CAC) wrote a letter to Representative Hutchinson of the Joint Conservation Committee expressing CAC's support of continued use of coal ash in abandoned mine reclamation, and opposing the statewide moratorium that Dante's Army is seeking. Duane Feagley of the Pennsylvania Anthracite Council said that Dante's Army is trying to network with other environmental groups, which could pose a problem for pro-coal ash groups.

Chairman Fred Wolf commented that he feels the issue of coal ash is a serious problem. He said that the DEP is not working fast enough to issue the permits that will take care of the problem. Mr. Wolf gave the example of the LC&N permit currently being evaluated by the Waste Management program. He said that the DEP is asking for too much information instead of getting the permit through. Paul Linnan of the DEP stated that LC&N has prepared a response to the information requested by the Waste Management program. Mr. Wolf said that the more time DEP takes to get the permit issued, the more time groups like Dante's Army have to get other opposition groups involved. He asked who the "point man" for the permit is. Mr. Linnan told him that the person working on the permit is Bill Pounds. Mr. Wolf pointed out that the Schuylkill County Commissioners are against the use of coal ash, and asked that the Board send a letter to the County Commissioners giving the MRAB's support of the use of coal ash. Steve Shrawder supported the motion, with Dave Mankamyer and Jack Chamberlin seconding the motion. Sue Wilson asked for more discussion.

Ms. Wilson feels that the Waste Program should get the information they are asking for before they issue the permit so they are not subject to challenge. Mr. Feagley said he thinks that there is only so far that the DEP can go with gathering information before it knows what it needs to know, and Ms. Wilson said she wants the DEP to err on the side of being conservative. Mr. Geary suggested getting both the company and the Waste Program in one room together to discuss the issue.

Mr. Wolf again brought up the motion of a letter to the county commissioners supporting the use of fly ash, similar to the letter that was sent to Representative Hutchinson. Ms. Wilson suggested simply sending a copy of the MRAB's letter to Representative Hutchinson. Motion approved.

Obligation: Send copy of MRAB's letter to Representative Hutchinson to Schuylkill County Commissioners.

Mr. Wolf brought up the problem of Representative Argall and his moratorium on the use of coal ash. Ms. Wilson said a letter was sent to Rep. Argall giving the CAC's support for the beneficial use of fly ash.

Ms. Wilson had a question for the Legislative Committee. CAC received a copy of a draft letter of legislative language providing transferable federal tax credits for the clean and safe utilization of waste coal as a domestic energy resource. The tax credit center would be distributed between the use of waste coal and the United Mine Workers of America Combined Benefit Fund.

Ms. Wilson asked that the Legislative Committee look at the language and make comments. Fred Wolf asked that by next board meeting, the Legislative Committee study the legislative language and make a recommendation to the full Board.

Obligation: Regulation, Legislation and Technical Committee to analyze the legislative language on transferable tax credits and report to the Board at the January 2004 meeting.

The *Ad Hoc Committee* (Sue Wilson, Committee Chair):

Ms. Wilson reported that the Ad Hoc Committee on Federal Surface Mine Control and Reclamation Act (SMCRA) Reauthorization met and discussed the federal negotiations on the Title IV Abandoned Mine Reclamation Fund. Copies of correspondence regarding this issue, i.e. a memo from PCA and a letter based on work done by the Environmental Council and PCA were reviewed. She said that last July, the states of Wyoming and Pennsylvania were in agreement on the issue, but now things have changed. What's currently on the table in a Rahall bill is detrimental to Pennsylvania. The Ad Hoc Committee recommends that a letter be sent to the Senators Specter and Santorum combining points of the letter and the memo. She deferred to Mr. Geary to explain the situation.

Mr. Geary said that the current legislation is not acceptable to anyone. Funding should go back to the states based on historical production, and the current legislation does not express that strongly enough. The existing federal SMCRA has two remaining incentives in it that expire on September 30, 2004. These incentives are not extended in the proposed legislation. There are also two other remaining incentives that were recommended but not included in the proposed legislation. All in all, five remaining issues were recommended to the legislators. Three will be eliminated, and two will not be approved. Mr. Geary feels that the issue of the Combined Benefit Fund should not be addressed in correspondence from the MRAB. The Board specializes in Mining and Reclamation issues, not the Combined Benefit Fund. He said that the issues in the letter and memo should be combined, minus the section on the Combined Benefit Fund, and sent to the legislators.

Mr. Feagley suggested that the legislators be made to understand that in the last five years, industry in Pennsylvania has restored over 15, 750 acres of land and improved over 125 miles of Pennsylvania streams, and has saved the taxpayers over \$100 million. This shows the remaining program in Pennsylvania is working, and that removing the remaining incentives in the proposed SMCRA will only hurt the Commonwealth.

Dave Strong motioned that the Ad Hoc Committee draft the letter to the legislators. Jack Chamberlin seconded the motion, and it was approved. Sue Wilson and Stan Geary will work together on the letter.

Obligation: Sue Wilson and Stan Geary will draft a letter to the legislators regarding the federal SMCRA Reauthorization and the Title IV Abandoned Mine Reclamation Fund.

The *Annual Report Committee* (Sue Germanio, Committee Chair):

Sue Germanio sent an email to Mr. Wolf, notifying him that the annual report was completed on July 4. Mr. Wolf asked Karl Lasher of the DEP Press Office to give an update. Mr. Lasher said that Susan Woods, Director of Communications, told him that the annual report will be available to the Board members online only, because of budget restraints. Mr. Lasher will provide electronic copies of the report to Board members. Printed copies will be available to Legislative committees. Mr. Wolf asked that the minutes reflect that Ms. Germanio did an excellent job getting the report out.

Orphan Mine Discharge Task Force (Dave Strong and Dave Mankamyer, Co-Chairs):

Mr. Strong deferred to Joe Schueck of the Bureau of Abandoned Mine Reclamation (BAMR). Mr. Schueck discussed a report titled "Use of Mine Pool Water for Power Plant Cooling." He said that he sent the MRAB Task Force and Legislative Committee an email regarding this report. The report discusses the use of mine pool water, and legal issues regarding this use. He wanted to let the Board know that this report was available and could be of assistance. Mr. Schueck said he would get with Nevin Strock of the Bureau of Mining and Reclamation (BMR) to distribute copies of this report to Board members.

Obligation: Distribute copies of "Use of Mine Pool Water for Power Plant Cooling" to MRAB members.

Mr. Schueck reported on the April 2003 meeting of the Orphan Mine Discharge Task Force, which was held at the Pennsylvania Game Commission building. The president of Dana Mining, Jim Laurita, was in attendance, and gave a talk about Shannopin Mine Pool and the mining company's work in that area. Mr. Laurita reported that the company is excavating foundation for the treatment plant, and that concrete will be poured on November 3. The Shannopin Mine Pool will discharge into Dunkard Creek, and the DEP would not have the money to treat it and those costs should not be a local taxpayer expense. This treatment plant will create 200 jobs, and will treat and discharge water that will be funneled along a seven-mile pipeline to a power plant in West Virginia.

At the July MRAB meeting, a motion was passed to have the 19 resolutions of the Orphan Mine Discharge Task Force placed into a book. Ms. Wilson moved that the Board formally submit these resolutions to the Secretary. Mr. Strong seconded the motion, and it was approved.

Obligation: Draft letter from Mr. Wolf to Secretary McGinty, presenting the resolutions of the Orphan Mine Discharge Task Force.

Dave Mankamyer reported that he attended a Duquesne Energy field trip to study aquaculture and fish. Staff members from the West Virginia University were on the field trip as well, and two professors have shown an interest in expounding the knowledge they acquired on the field

trip. They would like to investigate mine water and aquaculture and how it could increase jobs and economic opportunity. Mr. Mankamyer said that the idea will be taken to the Southern Allegheny RC&D District on October 24, and if they will adopt it, it will be taken to Penn's Corner RC&D to try and turn it into a project. Mr. Mankamyer said he hopes that the project will eventually get funding from DCED, DEP, and the Department of Agriculture.

Mr. Schueck noted that a database of mine pools and discharges is currently underway in BAMR. *Draft Rulemakings: Chapter 86*

Joe Pizarchik discussed amendments to Chapter 86 of the mining regulations. The draft final amendments, titled "Chapter 86 Coal Mining Amendments" (#7-376), was not presented to the Board, as internal review was not yet completed. DEP requested the MRAB's comments and approval of draft proposed amendments to terminate the \$100 per acre reclamation fee and to make various changes required by OSM. David Mankamyer moved to adopt the proposed amendments.

Jack Chamberlin seconded the motion.

Mr. Pizarchik also stated that public hearings were held in Indiana and Washington counties regarding the proposed amendment changes that were approved at the EQB meeting in July. The comment period is still in effect for those changes.

Program Review of Conventional Bonding:

John Meehan of DEP gave a report on the Conventional Bonding Program. The Program was reviewed over the summer of 2003, and the review team found that the change to conventional bonding was accomplished as envisioned, and it is believed to meet the needs of the Commonwealth. Mr. Meehan felt that any changes needed can be addressed through revisions to the technical guidance document on Conventional Bonding, and he requested any comments and suggestions. A redraft will be run through the normal DEP approval procedure, including a comment/response period and public hearings.

Bond Rate Guidelines for 2004:

Bill Allen reported on the Draft 2004 Bond Rate Guidelines, giving a detailed explanation of how the rates are calculated. Several items have costs increased, several remained the same and one decreased. The MRAB had a few questions but did not raise objections. The new Bond Rate Guidelines are to be published in the Pennsylvania Bulletin in December with an effective date of January 1, 2004.

BAMR Projects and Status Report:

Steve Jones of BAMR gave the current status of the different BAMR projects, reporting the statistics for the months of July, August and September. In total over those three months, six new projects were initiated, and six completed.

Bark Camp Project

Paul Linnan of the DEP reported on the Bark Camp Project. He said that the final draft of the report will soon be out for peer review. Technical staff from DEP as well as outside researchers from Penn State, Columbia and Rutgers Universities have been assisting in the review of the monitoring data and subsequent conclusions. With the exception of chlorides, no chemical parameters have increased from levels established before the project began. An increase in chlorides at various surface and groundwater points has been noted. The issue of the chlorides increase is still under evaluation. Mr. Linnan said the levels at Bark Camp itself are not alarming, but they should still be taken under consideration. Mr. Linnan advised the Board that the DEP intends to continue the water-monitoring program at the site for some time into the future.

Elevated Carbon Dioxide in Homes/Manganese Effluent Standard:

Keith Brady discussed a draft fact sheet on how elevated carbon dioxide levels can be detected in homes, how they may affect the occupants of the home and how simple solutions can be implemented. Most citizens will not feel the effects of carbon dioxide as anything more than fatigue and difficulty breathing. Mr. Brady said that the cure for the problem of high carbon dioxide levels is a reverse radon system, which will push air under the house, creating a bubble of fresh air.

As a follow-up to an MRAB request, he also discussed his research on the federal regulation standard for manganese and why it exists. He is still doing research, and has contacted agencies such as the federal Environmental Protection Agency to get more information. Mr. Mankamyer stated that he felt an in-depth study should be done into the beneficial reasons for the extra cost of removing manganese. Mr. Brady agreed, saying the issues should be revisited at both state and federal levels. Mr. Pizarchik added that there is a basis for the standard of treating manganese when the standard was developed, but that now the basis for that standard is uncertain.

Nemacolin Coal Refuse Recovery Project:

Bill Derby, President of Wellington Development Corporation, gave a presentation on the Nemacolin Coal Refuse Recovery Project (Project) involving the planned construction of a 500 megawatt power generating facility utilizing 150 to 180 million tons of coal mine waste within a 20 mile radius of Nemacolin, Greene County, to fuel the facility. The Project is on an 800-acre parcel located north of Nemacolin. The project will clean up coal mining wastes located on abandoned or non-operational coal mining properties. The facility will transport the fuel by barge on the Monongahela River, thereby alleviating the traffic on local roads. The wastes will then be used to generate electric energy, which will be delivered into the PJM Power Pool for consumption within Pennsylvania and surrounding states. Mr. Derby also gave examples of the environmental and economic benefits of this treatment center. Mr. Wolf presented Mr. Derby with a certificate of appreciation on behalf of the MRAB.

Shannopin AMD Project:

Christopher Colbert, President of AMD Reclamation, Inc., gave a presentation on the Shannopin Mine Project, which involves the planned construction of a \$7.1 million acid mine drainage treatment facility in Greene County. This facility will treat an anticipated five million gallons of discharge per day from the Shannopin Mine Pool. Mr. Colbert used a power point presentation to show how the plant will lower the water level in the Shannopin Mine pool by discharging treated water into Dunkard Creek until 2007, when the Longview coal fired power project is expected to commence operations. By lowering the water level, mining of the overlying Sewickley coal seam will be possible. Dana Mining Company will take over the mining of this area. Dana Mining Co. will pay the debt service and operating costs through 2007, and Longview will pay debt service and operating costs through 2037 or longer. This operation will prevent 3-5 million gallons per day of acid mine drainage from entering Dunkard Creek and the Monongahela River. It will create 200 jobs, and will preserve \$25,000,000 in annual gross revenues. The DEP permit was issued on September 25, 2003, and the prime contractor will be on-site as of October 27, 2003. The 4W Mine Permit was expected to be issued in December 2003, and construction at Longview Power was expected to commence in the second quarter of 2004. Mr. Wolf presented Mr. Colbert with a certificate of appreciation on behalf of the MRAB.

New Business:

The Board agreed that the meeting dates for 2004 will be January 8, April 22, July 8 and October 28. Reminders were given about the Keystone Coal Water Conference, on February 28, 2004, and the Manufactured Soils Conference, on November 12 and 13, 2003. Mr. Wolf made the motion to conclude the meeting with Mr. Strong seconding the motion.