Summary of Water Supply Replacement Public Meetings

Between May 5 and June 10, 2004, BMR and BDMO hosted six public open-house meetings to receive comments and suggestions regarding existing regulations and policies governing the replacement of private water supplies lost, diminished or degraded by mining activities (coal, noncoal, surface and underground). These meetings were held in DEP's Southcentral Regional Office and the following District Mining Offices: California, Knox, Moshannon, Pottsville and Cambria. An informal open-house format was employed in which anyone - without preregistration - could attend at any time between 2:00 and 4:30 P.M. or 6:00 and 8:30 P.M. to discuss relevant water supply issues with BMR and BDMO staff. Prior to the meetings, BMR and the DMOs mailed approximately 900 invitation letters to a variety of potential stakeholders and interested parties, including mine operators and trade associations, consulting firms, legislators, county and municipal governments, citizen and environmental groups, well drillers, water suppliers, and individual property owners who were known to have experienced past private water supply problems related to mining. In addition to these individual invitations, the DEP Press Office issued a statewide news release and written media advisories; wrote two update articles; spoke to individual reporters; and made numerous telephone calls to local area radio stations asking them to promote the meetings on the air.

In spite of all these efforts to get the word out and solicit participation, a disappointing total of only 85 people (not including DEP employees) attended the six meetings. Attendees included: 30 private citizens or representatives of citizen groups; 24 mine operators or trade association representatives; 13 consultants; 5 news media; 4 municipal officials; 3 legislative staff; 1 state representative; 1 SRBC staff person; and 4 other individuals who could not be categorized from the information they supplied on the sign-in sheets.

The Department sought input/suggestions for resolving the following six items:

- What method should be used to provide for the permanent payment of increased operation and maintenance costs of replacement water supplies?

- A resolution of the issue concerning payment of operation and maintenance costs when an operator and water supply owner cannot reach a financial agreement.

- A resolution of the questions concerning continuation of payment of operation and maintenance costs to subsequent property owners – do operation and maintenance costs run with the land?

- A resolution of replacement water supply quality issues were pre-mine quality (e.g., springs) was better than drinking water standards and where the replacement supply meets drinking water standards.

- A resolution of the issue concerning quantity of a replacement supply where no accurate pre-mining information is available.

- A resolution of diminution issues where an operator is found to be only partially responsible for the water supply diminution.

No possible solutions were suggested. Following is a summary of discussion from those meetings:

- The Department needs to improve public outreach and education of citizens concerning their rights when their water supplies are impacted. This needs to be done up-front during the permitting process. (Raised at **5 of the 6** meetings)

- There should be an "environmental advocate" to advise water supply owners concerning their rights and settlement options in the event their water supplies are affected by mining. (Raised at **4 of the 6** meetings)

- The Department should require all mine operators to notify the Department whenever any water supply is impacted and maintain statistics on all impacts to private water supplies caused by mining. (Raised at **4 of the 6** meetings)

- If a property owner replaces a water supply well on his own, should the mine operator be required to reimburse the total cost, if the cost of the replacement well exceeded that which was necessary to replace the original lost supply?

- When a private on-lot water supply is replaced with public water, should the mine operator be given some consideration due to the alleged increase in property value?

- If a local ordinance requires home-owners to connect to a public water line extension, even if their own wells were not impacted by mining, should the mining company have to pay for their connection and O&M? The Department should require mine operators to post a bond if a permanent supply is not provided within 90 days.

- The Department should establish a water supply replacement program similar to the MSI program.

- Water supply owners should get copies of all sampling information done by the mining company and their supply.

- What should be the Department's response in situations where a permanent replacement supply is impossible?

- The Department needs to improve the accuracy of its prediction of adverse water supply impacts.

- If a mine operation only contributes to – rather than causes – a water supply loss, should the mine operator be liable for the entire cost of replacement or only a

percentage of the total cost, if premining baseline data is available to establish such a percentage?

- Some DMOs require that a replacement supply produce 5gpm if no premining data on quantity exists. This quantity is excessive and not achievable in some aquifers.

- Data on well yield obtained from well drillers is often incorrect.

- What should be done when the location or condition of a well preclude the collection of premining data?

- The collection of water level/well yield data does not account for seasonal fluctuations of other impacts (e.g., drought).

- The Department needs to define the term “reasonable foreseeable use”. What is “reasonable”?

- There should be a rebuttable presumption distance for noncoal mine operations.

- The Department should consider the impacts on the water table of consumptive non-mining development that occurs within the aquifer after the onset of mining – cumulative impacts.

- Should the obligation to provide increased O&M costs run with the property forever or the owner of the property when the supply was impacted?

- Noncoal deep mining does not have a water supply replacement obligation.