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MINING AND RECLAMATION ADVISORY BOARD (MRAB)

**Thursday, April 24, 2003
Rachel Carson State Office Building
10:00 a.m.**

Members/Alternates in attendance: Fred Wolf (Chair), Jack Chamberlin (Member), Joe Deklinski (Alternate), George Ellis (Alternate), Duane Feagley (Alternate), Richard Fox (Alternate), Dave Mankamyer (Member), Steve Shrawder (Member), David Strong (Member), Bruce Tetkoskie (Alternate), Sue Wilson (Alternate), and Mike Young (Alternate).

Others in attendance: Dennis Bell (Skelly and Loy, Inc.), Mike DiMatteo (Pa. Game Commission), Pat Henderson (Legislature), Richard Herd (Environmental Engineer Consultant), Bernie Hoffnar (DEP), Mary Ann Ingreem (DEP), Steve Jones (DEP), Carl Leshar (DEP), Paul Linnan (DEP), Kristin Margut (DEP), Harold Miller (DEP), Larry Myers (Pa. Resource Council), Joe Pizarchik (DEP), Billie Ramsey (ARIPPA), George Reiger (OSM), Marc Roda (DEP), Joe Schueck (DEP), William Shakely (DEP), Joe Sieber (DEP), Nevin Strock (DEP), Sara Tumulty (WPCAMR), Kurt Weist (PennFuture), and Andy Zemba (DEP).

Meeting Called to Order

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

Adopt Minutes from January 9, 2003 Meeting

A motion was made by Jack Chamberlin, seconded by Dave Mankamyer, and approved by the Board to accept the minutes of the January 9, 2003 meeting.

Corrections to the minutes of October 24, 2002: The MRAB was created and set up on September 19, 1984. Its first meeting was held May 28, 1985 and the original by-laws were written January 25, 1989.

Obligations from January meeting

Patents for Manufactured Soils: Mr. Pizarchik said an attorney was looking into this. Mr. Strong talked to the person who holds two patents, who said if anyone uses dredge he will go after them. Marc Roda supplied copies of the patent summaries for the Board members.

List of Companies Presently Treating Water:

Obligation: *Joe Schueck will send out a copy of the list and maps to Board members.*

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Communications

Three members were reappointed to the Board for two-year terms expiring in 2005: Mark Snyder, Jack Chamberlin, and Dave Osikowicz. Joe Deklinski, an alternate for Rep. Sam Smith, was introduced to the Board.

Committee Reports

The *Policy Committee* (Mike Young reporting). Committee did not meet.

The *Reclamation Committee* (Dave Strong, Committee Chair). Mr. Strong reported the committee has been spending time with mine pool discharge problems. He asked Paul Linnan to give an update on Bark Camp and Tamaqua.

Bark Camp - Currently there is not a lot happening. During the winter some paper material and sawdust came in to make more manufactured soil, which is being stockpiled. Last fall CTI, which is now CEDTI (Clean Earth Dredging Technology Inc.), negotiated a consent agreement with Williamsport to allow some additional material. There are on-going negotiations with the Army Corps in Philadelphia for them to provide 50,000 cubic yards and to do this they will soon put out a request for proposals. They will also be building a rail spur into Fort Mifflin as part of the project so that it will be in position to move the material. Water quality results continue to be very good. Testing for metals still shows nondetectable levels except for lead. Mr. Linnan reported he contacted Wyona Coleman at Scott Robert's suggestion to show her around Bark Camp. She and some others will be at Bark Camp on May 13.

Tamaqua - Mr. Linnan started two years ago to work with legislators, environmental groups, and Tamaqua Borough Council. The project started last November and is going well. The final 50,000 cubic yards of material arrived April 23 but about 3,500 more cubic yards will be needed to complete the reclamation. A program was set up for an on-site inspector to take five composite samples each day and send those to an independent laboratory. The laboratory then selects one sample to analyze for the suite of inorganics and PCBs so there is a running table of results. With the exception of cobalt and arsenic, all values meet safe fill numbers; the values for cobalt and arsenic are not high enough to be an issue. A well was installed into the fill material with a liner under half the site that would direct any moisture that went down through the fill across the liner and into the well. That well is dry. Coal ash has not been used at Tamaqua. Dante Picciano, a Ph.D. geneticist who became a patent attorney working with biological and chemical patents, thinks that coal ash is dangerous and has been enlisting people in "Dante's Army." He has sent out flyers, given out misinformation, and misrepresents information. It was reported to Mr. Linnan that Mr. Picciano has hired a consulting firm and an environmental law firm to take the issue to court if he has to. Mr. Linnan believes DEP needs to get together accurate information and make it available to the public and he also thinks another public meeting would be in order with perhaps nationally-known people who can give correct facts about ash. If dredged material is used on this site, it must be mixed with ash, lime, or Portland cement.

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Fifth Annual Watershed Conference on Abandoned Mine Reclamation is May 15-17, 2003. It will include some lectures on the mine pool issue.

A Manufactured Soils Conference will be held November 12-13, 2003.

The MRAB has been using the WPCAMR and EPCAMR web sites. The Board is looking for input (pictures, etc.) that can be put on the web sites. Contact Dave Strong if you have such information.

The *Regulation, Legislation and Technical Committee* (Dave Osikowicz, Chair). The committee did not meet.

Mr. Wolf reported there had been an informal meeting regarding reauthorizing money from the Abandoned Mine Land (AML) fund. He would like to have a committee work with DEP to write a letter to support this fund but more information is needed before writing the letter.

A motion was made to create a steering committee to look into a process to assist the Board in developing a recommendation on reauthorization, which committee will be composed of six Board members to be appointed by the Chairman - one from bituminous industry, one from anthracite industry, two from CAC, and two legislative representatives. The motion was seconded by Mr. Mankamyer, and approved. Sue Wilson will head this steering committee.

Obligation: *Mr. Pizarchik will inform Rod Fletcher that this committee has been established.*

Mr. Mankamyer stated that the demographics had changed and he felt water should be given a higher priority in the use of AML funds and that watershed groups should be consulted and then a compromise should be worked out regarding the State's position.

Mr. Pizarchik stated the AML fund issue had been discussed at a recent IMCC meeting, which has an AML group working on language to support it. At the IMCC meeting, OSM issued a handout showing how the funds were distributed and how coal production among states had changed. The information in the handouts suggests a change is needed in how the AML fund is handled.

Obligation: *Mr. Pizarchik will make the handout available to the Board as soon as possible.*

Mr. Ellis stated there are different groups studying this question and he suggested the groups should be brought together to find some commonality.

Annual Report

The Annual Report for the year 2000-2001 is completed.

An Annual Report Committee will be headed by Sue Germanio, with members Richard Fox, Sue Wilson, and Fred Wolf.

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Mr. Wolf noted that problems in the past had delayed the report. These problems included that members were busy with other things and that when meetings were held there was no secretary to take notes.

Update on Orphan Mine Discharge Task Force

Mr. Mankamyer suggested establishing a policy book in which documents could be added and changed by resolution of the Board. It would also give DEP a way to respond to the Board. The policy book would be a living document in which changes can be made as the need arises. He stated some of the urgency went off of the Task Force because the judge for the LTV case gave DEP \$25 million and Beth Energy agreed to assume environmental liability but there are still imminent threats. He developed some resolutions that had been given to the Task Force for consideration. The resolutions need to be fleshed out but not to the extent that the Board tries to micromanage DEP.

A motion was made by Mr. Mankamyer to establish a policy book. It was seconded by Sue Wilson, voted on and carried.

Joe Schueck explained that discharge information is in a database but DEP has not had the need to look at the information in the same way as the Task Force, however DEP has identified those discharges that are greater than 250 gpm. This summer, interns will measure chemistry and GPS locations so DEP can come up with a good database/map and eventually put it on eMap PA. This information will also be given to the Governor's Action Team for use by industries wanting to relocate to Pennsylvania. Once the discharge is located, pulling together additional information can be done quickly. Financing is a key issue. There is some technology that has not been applied in the east but we would like to see some demonstration projects done here. Recently Joe Schueck, Mike Young and others attended a meeting of federal agencies. Those agencies suggested that, in order to get federal funds for the demonstration project, DEP needed to partner with at least one other state so talks were held with representatives of West Virginia that will be followed up with further discussions.

A motion was made by Mr. Mankamyer that DEP develop a database system of existing mine pools and do a prediction of discharges. Seconded by Dave Strong, voted on and carried.

Mr. Mankamyer presented draft resolutions for the Board's consideration. The resolutions were divided into four sections to correspond to the four subcommittees of the Task Force: Technology; Outreach; Financial; Legal and Legislative. It was decided that the members will review the resolutions and get their comments to Joe Schueck by May 27. Joe Schueck will e-mail the comments to the Task Force. A conference call of Task Force members will be held June 3 at 10 a.m. There will be a Task Force meeting on June 16. The Task Force will finalize the resolutions within the four groups and submit them at the next Board meeting. After the Board approves them, the resolutions can be submitted to DEP.

***Obligation:** Send out a copy of the resolutions to Board members.*

Briefing on Planned DEP Mining Program Undertakings

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Fact Sheet on Carbon Dioxide: Incidents of carbon dioxide entering homes on or near surface mine sites are being reported to DEP. Carbon dioxide is naturally occurring in the environment and can enter homes through cracks in the foundation and can extinguish pilot lights in water heaters and furnaces and can impede breathing, cause headaches, and asphyxiation. Remediation involves reverse radon technology that pumps air into the home to force the carbon dioxide out. DEP plans to develop a fact sheet that should be available later in the year.

Water Supply Replacement Rulemaking: In the past courts had ruled that the owner of a water supply needs to have control over the supply, it must meet his needs, and increased costs are the burden of the operator and not the homeowner. In implementing this, a number of issues have come up and DEP is caught in the middle of some of the issues. DEP is planning to do an outreach to citizens and then develop regulations so everyone knows what is required and understands their rights and obligations. Mr. Pizarchik hopes to get this started later this year.

Status Update of Current DEP Mining Program Undertakings

SMCRA Remining Incentives Report 2001-2002: Reports go to the General Assembly in July. The DEP report period will be changed from a fiscal year to a calendar year. This will give DEP time to get all information ready for the report and get it to the MRAB for its review and comments. This way everything can be completed and forwarded to the General Assembly on time. In January, DEP asked for recommendations for remining incentives from the MRAB, which would be included in the Remining Incentives Report.

The next report will be based on calendar year 2003.

Board members were given copies of the remining incentive recommendations of the Pennsylvania Coal Association (PCA) and Pennsylvania Anthracite Council (PAC).

Obligation: *Board members not present at the meeting will be sent copies of the remining incentives.*

Mr. Young elaborated and explained the position presented in the draft comments of PCA. PCA felt the MRAB should recommend that DEP pursue remining and should make sure that DEP understands and takes care of difficulties that may have been caused by the transition to conventional bonding that created a disincentive for remining.

In the last legislative session, the MRAB made a recommendation and DEP agreed in principal to support the concept of tax credits, but perhaps the MRAB should recommend that DEP find a legislative vehicle and press for this as a way to provide support for remining.

The AML taxes have to be paid on anything produced. The MRAB should consider looking at AML fee reauthorization.

Mr. Young suggested people have to be able to look at things and determine what the goal is and ways to achieve the goal without worrying so much about whether a certain objective that is less

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important is met. He mentioned that District Mining Offices were on the lookout for ways to put projects together and make suggestions to mining companies and watershed restoration projects and finding ways for them to partner up. He believes there should be some way to allow the grant award process to include re-mining.

Mr. Feagley concurred with Mr. Young but had comments on the PAC proposals.

- 1) The Department and operator are both monitoring water. Why not coordinate that effort.
- 2) There are a lot of abandoned mine lands next to active operations. Operator could go in with excess spoil, backfill the area, and help reclaim it but the operator isn't getting paid for that. There should be some kind of credit program allocated for this. The operator would be off permit but under a GFCC program, if the operator could submit a contract for the reclamation, the operator could do it. The paperwork is necessary because of the bond credit program.
- 3) PAC recommends that the Re-mining Operator's Assistance Program (ROAP) be amended to allow it to cover engineering costs for bonding increments.

On May 27 at 2 p.m. a conference call will be held for the MRAB to decide which comments it wants to adopt as its recommendation. This meeting will be sunshined and held in a conference room with a speaker phone. Members of the public will be welcome. [Due to teleconferencing services not being available for May 27, this was rescheduled to May 28 at 3 p.m.]

Obligation: MRAB to get recommendations for re-mining incentives to the DEP by May 30.

Proposed Rulemaking §86.152(a) Bond Adjustment: At the January meeting, it had been proposed to change the language of this section so it more closely resembled the federal regulations. Mr. Pizarchik asked for a motion from the MRAB, approving the language, that could be taken to the EQB in June. PCA representatives were concerned with the proposed language because they wanted changes to apply only to reclamation bonds and not to apply to bonds posted for mine subsidence damage. DEP intended the language to apply to bonds posted for reclamation and bonds posted to insure mine subsidence damage.

A motion was made that the MRAB recommend the EQB approve the language as proposed rulemaking provided an explanation be put in the preamble clarifying the amended regulation regarding subsidence bonding. The motion was seconded, voted on, and carried.

Obligation: DEP and PCA will work out the language of the preamble.

Bond Rate Guidelines: Guidelines were published in the April 5 *Pennsylvania Bulletin* and became effective April 21. In order to meet publishing deadlines, DEP will get items to the MRAB earlier so DEP can get the MRAB's input in a timely manner.

Trust Funds: For AMD trust funds, DEP is working on a database that will list discharges operators are treating.

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Status/Update of Current/Planned BAMR Undertakings

Steve Jones gave a summary report of BAMR projects. Currently, BAMR has 3 currently active projects, 4 bids, and 7 bid proposals opened. Currently, there are 28 projects under construction for a total of \$28 million. In the last quarter, BAMR completed 7 projects worth \$4.1 million.

Power Point Presentations

A presentation on market-based land reclamation was given by Larry Myers, Executive Director of the Pennsylvania Resources Council, and a presentation on eco asset management was given by Richard Herd, an environmental engineer.

New Business

Pollution trading/nutrient trading: A suggestion was made to identify a watershed with some mining operations on it and ask DEP to study it with respect to pollution trading. Operators are treating discharges that add no value to the stream. It would be better to use the money some place else where it would do some good. The question was raised whether this should be given to the Reclamation Committee to draft something for DEP.

Next Meeting

The next MRAB meeting will be a field tour on July 9 with a meeting July 10. Suggestions for the field tour were the Shannopin mine pool and big mine pool discharges preferably in the western part of the state.

Upon motion made, seconded, and approved the meeting adjourned at 2:25 p.m.