

***DRAFT***

**MINING AND RECLAMATION ADVISORY BOARD (MRAB)**

**Wednesday, May 28, 2003  
Rachel Carson State Office Building  
3:00 p.m.**

Members/Alternates in attendance: Fred Wolf (Chair), George Ellis (Alternate), Duane Feagley (Alternate), Richard Fox (Alternate), Sue Germanio (Alternate), Pat Krommes (Alternate), Steve Shrawder (Member), David Strong (Member), Burt Waite (Member), Sue Wilson (Alternate), and Mike Young (Alternate).

Others in attendance: Mary Ann Ingreem (DEP), John Meehan (DEP), Billie Ramsey (ARIPPA), Joe Seiber (DEP), Bill Shakely (DEP), Mike Steiner (DEP), and Nevin Strock (DEP).

**Meeting Called to Order**

The meeting was called to order and directed by Chairman Fred Wolf.

**Discussion of Remining Incentive Proposals**

Mr. Feagley reviewed and commented on the four recommendations submitted by the Pennsylvania Anthracite Council (PAC).

He offered PAC's first suggestion from the 4/24 MRAB meeting unchanged.

Regarding credit for remining on a permit area, PAC suggested that credit be given for remining on a permit area that is not bonded and is not intended to be mined, but is just a preexisting open pit on the permit area that needs to be filled in. This would benefit the operator because it could eliminate spoil by filling the pit and reclaiming the area. The operator would not have to bond the area he would be working on as a bond credit because if a certain area was worth a certain amount to backfill and the operator does that, it's like a contract - no bonding, but credit.

PAC urged continuing the ROAP program and to expand it to include funding for existing coal mining permits as new increments of the permit are opened, although it was acknowledged that most of the engineering costs would be incurred up front.

PAC suggested that DEP reduce the 5-year liability period for refuse pile remining sites after final planting to a two-year liability for consistency with the federal requirement. John Meehan explained that federal SMCRA was allowed for "lands eligible for remining" and bond would be released two years after last seeding which would include abandoned mine lands as well as refuse piles. If an operator doesn't have vegetation in three years, the bond would not be

released even if the regulation states “two years.” The proposal is that the mandatory holding time would be reduced to two years.

A question was raised why DEP suggested that some re-mining incentive recommendations not be included in the Re-mining Report. It was explained that for some incentives the legislature did not have to be involved. DEP assumed that the MRAB would make recommendations to the legislature to make the programs better and not to list everything involved in the re-mining program.

Recommendations from the Pennsylvania Coal Association (PCA):

**Impediments for Re-mining on Public Lands** - Sue Germanio reported that the legislature was having trouble with the Game Commission in setting up a water treatment at the Shannopin site because the Game Commission wants much more than the value of the land. She is considering changing that portion of the Game Code that provides for the Game Commission to lease or sell land for equal or greater value because the Game Commission has been using this section to its advantage. Mr. Wolf mentioned that his company has to give the Game Commission 2,000 acres in exchange for 200 acres. Mr. Young said they had trouble getting people to understand the value of abandoned mine reclamation versus the other values or uses of public land since a state agency would be getting a royalty while a water quality or air quality problem would be reduced. He mentioned the land suitable for re-mining program should be explored. It was agreed to make a general statement that coal operators sometimes have problems dealing with different agencies.

**Green energy production** - This could be addressed in relation to cogeneration plants and coal refuse from coal plants. If this item were included, the MRAB would have to include some good research evidence. MRAB will ask DEP to evaluate how this should be considered.

**Re-mining Bond Program** - There was concern when transition was made to full-cost bonding that, because of the way the bonds are calculated, there could be a disincentive for re-mining due to the cost of the reclamation. It was questioned whether regulatory language needs to be added or an amendment needs to be done. We want to encourage DEP to iron this out. This was a condition of the approval of the full-cost bonding program. DEP said we would have to give some thought on how to incorporate this as part of GFCCs (Government Financed Construction Contracts). Is there going to be some additional funding for the financial guarantees program. There needs to be resources available to support re-mining bond in amount equivalent to the amount of reclamation. This was sent to the MRAB when they recommended approval of the trade issue. The MRAB should restate that and get a response. John Meehan explained financial guarantees and said there is some limiting language in the regulations that restrict those funds to be used only on “re-mine area,” which is abandoned land plus 300 feet. Bonds that were up on the sites when they were changed to conventional bonding are allowed to float just like everything else is on the site within that mining area. Currently, when an operator asks to use re-mining financial guarantees on new sites, the abandoned mine land is calculated using the cost to reclaim to the Department using those same broad guidelines that are used to calculate bonds on mining sites. That value is allowed to be issued as part of the bonding package on the new surface mining permit. The restriction is \$80,000/permit and \$240,000/operator. Currently, DEP is reviewing conventional bonding because the concern is since the Commonwealth holds

40% of the bonds on active mining sites, we need to make sure the program is running appropriately before expanding that percentage. Mr. Young still thinks the MRAB needs to make a comment to make sure there is adequate re-mining bond. Currently it's hard to get an operation up and running. John Meehan stated \$800,000 has been allocated for re-mining financial guarantees, \$200,000 for the bond credits program. DEP needs to hold \$1 in reserve for every \$1 of bond and almost the whole \$200,000 is already committed to projects that have been done. Once an operator uses that as bonding twice, it is returned to the fund for other operators to use. Regarding the \$800,000, the DEP cannot issue more than 10% of that reserve against each permit. There is also an additional \$1 million in the re-mining financial insurance fund that has not been allocated for the reason that if there is a bond forfeiture and it reduces the reserve, we would have to reduce the bonds available on mine sites immediately. Perhaps the MRAB could recommend to the Legislature that more funding be available to the program.

**Tax Credit** - There was a bill submitted by Reps. Argall and Smith in the last legislature for tax credits for re-mining operations (i.e., a \$2/ton credit against the operator's total state tax liability for each ton of coal mined on a sub F/G permit). Rep. Argall is considering reintroducing the bill and it would be good to have MRAB backing the legislation recognizing that the Department of Revenue would also be involved.

**Brownfields** - PCA is not opposed to using brownfield money for abandoned mine sites that is now being used for abandoned industrial sites. Rep. Yudichak has reintroduced this bill (HB 344). Motion was made, seconded, and carried to include brownfields in the recommendations.

**Direct Economic Support** - PCA is withdrawing this recommendation.

**Growing Greener to Support Re-mining** - The most cost effective way to do this is to assign some value to projects that are done in conjunction with re-mining. This is another area where something should be done with areas suitable for re-mining. If a watershed association applies for a Growing Greener grant with a site having AMD problems, they could approach a mining company and agree to clean up the AMD part if the mining company can do some re-mining. Suggested having an MRM review of a grant application. Mr. Meehan explained when a grant application is submitted, it's reviewed by the Water Deputate staff. If it's an AMD or mining problem it's reviewed by the DMO staff. MRAB should reemphasize its support.

Summary of the Recommendations:

Recommend that legislature offer more financial support for the re-mining incentives program.

Recommend MRAB support re-mining tax credit legislation still being review by Rep. Argall.

Recommend elimination of impediments to and encouragement of re-mining on public lands and try to get state agencies that have public lands to cooperate with environmental re-mining programs and projects.

Endorse coordination of re-mining with other reclamation resources be taken into account.

Recommend that remaining all coal refuse reprocessing be valued and considered as green energy production.

These recommendations of the MRAB will be included as Appendix A to the report DEP is ready to submit to the Legislature. John Meehan will get the proposals together and get them out to the members for review by May 29. The members must return comments no later than June 2. Mr. Strock explained that DEP's recommendations are in the Report and the legislative language says that the Report shall include comments by the MRAB, if any.

### **Other Business**

Next MRAB meeting will be July 9-10.

The meeting adjourned at 4:15 p.m.