

Regulation, Legislation and Technical Committee Meeting

Friday, October 12, 2007

10:00 A.M.

**14th Floor Conference Room, Rachel Carson State Office Building
Harrisburg, PA**

Committee Members/Alternates in attendance: Jack Chamberlin (Committee Chairman), David Strong (Member), Susan Wilson (Alternate)

Others in attendance: David Osikowicz (MRAB Chairman), Edward Helfrick (MRAB Member), Duane Feagley (MRAB Alternate), George Ellis (MRAB Alternate), George Rieger (OSM), Bob Allen (Reading Anthracite), Randy Lindenmuth (Reading Anthracite), Fred Sherry (OSM), Joseph Pizarchik (DEP), William Allen (DEP), Bruce Carl (DEP), Rod Fletcher (DEP), Richard Morrison (DEP), James Charowsky (DEP), Nicholle Harman (DEP), Andrew Signore (DEP)

Meeting Called to Order

Jack Chamberlin called the meeting to order at 10:15 a.m. He welcomed everyone and asked that they introduce themselves.

2008 Bond Rate Guideline Update

Bruce Carl distributed copies of a report he prepared which contained information and statistics related to grading costs during the period of 2005 through 2007, grading project bids, and a bond rate summary for the period of 2006 through 2007, including the proposed rate for 2008. Mr. Carl then discussed the report with the members of the committee. The preliminary conclusion is that the bond rate will very likely increase for 2008. The full board will be given an update of this material at its October 25th meeting.

David Osikowicz questioned the methodology used to obtain the figures used within the report to project the costs of future projects related to reclaiming conventionally bonded sites, noting technological advancements. Joseph Pizarchik assured Mr. Osikowicz that the Department would entertain any ideas or suggestions of alternate methods, noting that the Department is currently investigating the contract details and requirements under Act 181. Asked by a board member why Act 181 contracts may be cheaper, Mr. Pizarchik explained that these are “lump sum” negotiated contracts, which may prove more cost effective. Mr. Allen assured all present that Mr. Carl would continue to investigate the possibility of utilizing Act 181 for the purpose of limiting costs.

Alternate Bonding System/Reclamation Fee – Bonding Rulemaking

Joseph Pizarchik briefed the Committee on the 3rd Circuit Court of Appeals August 2 ruling. This ruling reversed the District Court and reinstated the program condition that required Pennsylvania to take action to address the funding inadequacies of the Alternate Bond System (ABS). The court ruled federal “SMCRA demands that ‘sufficient money’ will be available ‘at any time’ a discharge funding for mine discharge abatement and treatment at all ABS forfeiture sites.” He explained that the Department is currently looking at methods to raise money necessary to reclaim all Alternate Bonding System (ABS) forfeitures, construct treatment facilities for the forfeitures that do not have a functioning system, and operate/maintain those facilities. He discussed the preferred options for funding ABS forfeitures as applying the reclamation fees to the entire permit and a civil penalty surcharge. He expressed the Department’s spirit of cooperation with all parties having an interest in this matter, as well as its willingness to entertain ideas submitted to address these concerns.

Duane Feagley voiced for the record a request for bonding/conversion assistance for anthracite mining operations. He explained that in the anthracite region all mining is actually re-mining and the reclamation work completed on abandoned mine lands is at no cost to the Commonwealth.

In response to Mr. Feagley’s comments, Mr. Pizarchik explained that the Department could not justify government subsidies for one industry over another. He did, however, confirm the Department’s willingness to explore ideas related to re-mining incentives in this area.

Edward Helfrick voiced concern about the lack of re-mining incentives. Mr. Osikowicz moved to add this item to the agenda of a future MRAB meeting and Susan Wilson agreed with this suggestion.

George Ellis voiced his concern that one party should not be completely responsible for funding ABS forfeitures. He requested the Department provide the MRAB at the October 25th meeting with information and options that could tap into existing revenue such as: the SMCRA Fund, Conversion Assistance funds, Growing Greener, 30% set-aside and General Fund appropriations. Also, he requested that the Department present information that details the negative effects of the loss of monies under the existing programs, and further provide information about the merits of resubmitting its program enhancement document to OSM as a program amendment designed to satisfy the court’s decision on this matter.

MRAB Chairman David Osikowicz called for a special meeting of the MRAB to discuss the findings of the October 25 meeting. There were no objections to this request. The special meeting is scheduled for November 29, in Harrisburg at the Rachel Carson State Office on the 16th Floor, Delaware Room, beginning at 10:00 AM.

Meeting Adjourned

The meeting was adjourned at 12:40 p.m.