

# Annual Report July 2006 – June 2007



Commonwealth of Pennsylvania  
Department of Environmental Protection



**EDITOR'S NOTE: All references in this report - including position titles held by individuals, legislative references and time references - are current for the time period ending June 2007.**

**A Message from MRAB Chairman David Osikowicz**

**July 2007**

On behalf of the Mining and Reclamation Advisory Board (MRAB), I am pleased to present this report, detailing the Board's activities from July 2006 through June 2007. The Board continues to address environmental problems related to past coal mining practices, while assisting the Department to ensure that modern operators do not contribute to those problems.

The full Board met four times during this period.

The Board was especially pleased to learn that after many years of encouragement, Title IV of the federal abandoned mine land program was finally reauthorized in December of 2006. Pennsylvania will receive a very substantial increase in the annual grant it receives through Title IV which will greatly enhance its effort to restore pre-primacy abandoned mine sites as well as mine discharges affecting our rivers and streams. The Board will continue to be involved as the Department deliberates how best to direct the use of this money.

In addition, DEP consulted the Board regarding bond rate guidelines, proposed mine opening blasting regulations, water supply replacement and operation and maintenance guidance, reclamation fee and bond forfeiture elimination regulations, mine safety regulations, and a beneficial use general permit for circulating fluidized bed boilers.

I thank all Board members, alternates, speakers and DEP staff for their participation and support. As the Chairman, I speak for myself and the Board who recommit ourselves to taking an active interest in the mission of the DEP, the rights and obligations of the industry, and the relationship of both with the citizens of Pennsylvania.

Sincerely,

David Osikowicz,  
Chairman

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## Introduction

The Mining and Reclamation Advisory Board (MRAB) was created in 1984 by Act 181 of the Pennsylvania General Assembly, which amended the Surface Mining Conservation and Reclamation Act (SMCRA). The Board's purpose is to assist the secretary of the Department of Environmental Protection (DEP) in expending reclamation funds for the purposes provided by SMCRA and to advise the secretary on all matters pertaining to mining and reclamation. The advisory role of the Board also covers Title IV of the federal Surface Mining Control and Reclamation Act, which relates to abandoned mine land reclamation issues.

The Board is comprised of the following members:

- Two licensed bituminous surface mine operators;
- One licensed anthracite surface mine operator;
- Four public members of the Citizens Advisory Council, elected by the Council;
- One anthracite or one bituminous licensed professional engineer;
- One county conservation district representative, appointed by the Pennsylvania State Conservation Commission;
- One majority party state senator, appointed by the president pro tempore of the Senate;
- One minority party state senator, appointed by the president pro tempore of the Senate;
- One majority party state representative, appointed by the speaker of the House of Representatives; and
- One minority party state representative, appointed by the speaker of the House of Representatives.

The Board operates under bylaws adopted in January 1989 and amended in October 1993 and December 1996. The bylaws establish a committee structure and other operational procedures, including a minimum of four meetings per year, held in January, April, July and October, as required by SMCRA. *The bylaws current for the time period covered by this report are found in Appendix A.*

## **The Board's Committees**

- **Annual Report Committee**

As mandated by Section 18(g)(5) of SMCRA, "The Board shall prepare an annual report on its activities and submit the report to the Senate Environmental Resources and Energy Committee and the House Conservation Committee." Throughout the reporting period, the committee compiles and summarizes information for inclusion in the Annual Report.

**Members of the committee:**

Richard Fox, Co-Chair  
Stan Geary, Co-Chair  
Joseph Deklinski  
Susan Wilson

- **Policy Committee**

The Policy Committee held its initial meeting in October 1993 (then called the Policy and General Issues Committee). Its mission is to consider mining and reclamation policies identified as integral to the timely and efficient administration and operation of DEP's mining regulatory and abandoned mine reclamation programs.

**Members of the committee:**

David Mankamy, Chair  
Mark Snyder  
Walter N. Heine, P.E.

- **Reclamation Committee**

The Ad Hoc Committee on Reclamation Issues was originally formed at the July 1997 Board meeting in response to concerns regarding the Bark Camp Mine Reclamation Laboratory in Clearfield County, the Reed and Strattanville sites in Clarion County and a package of reclamation initiatives being developed under DEP's "Reclaim PA" program.

At the Oct. 22, 1999 MRAB quarterly meeting, the Board voted unanimously to change the name to the Reclamation Committee to reflect the committee's ongoing work. The committee addresses reclamation issues, initiatives and activities.

**Members of the committee:**

David L. Strong, Chair  
Jack R. Chamberlin  
Duane Feagley  
Stan Geary  
Robert E. Hughes  
Susan M. Wilson

- **Regulation, Legislation and Technical Committee**

The Regulation, Legislation and Technical Committee reviews all major regulatory packages coming before the Board during the reporting period and reports back to the full Board.

**Members of the committee:**

Jack Chamberlin, Chairperson

Sen. Raphael Musto

Sen. James J. Rhoades

Rep. Deberah Kula

Rep. Samuel H. Smith

David L. Strong

Susan M. Wilson

## **FULL BOARD**

SMCRA mandates that the MRAB meet four times per year. Throughout the reporting period, the full Board met four times. The following sections provide a detailed summary of the activities of the full Board. For a complete list of meeting dates and locations, see **Appendix D**.

### **2006-2007 MEETINGS**

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#### **July 12-13, 2006 (District Mining Office, California, PA Field Meeting)**

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The first meeting during the reporting period was held in connection with the Board's annual field trip. The Board meeting was held on July 12 at the Department's California District Mining Office. The field trip was on July 13, 2007. It included visits to the former LTV-Banning coal refuse disposal area and mine water treatment facility located near West Newton, a former Pittsburgh Coal site located in near South Park, and the proposed site for the Botanical Gardens of Western Pennsylvania, located within Raccoon Creek Park. At the LTV site the field trip participants were able to observe the magnitude of the abandoned coal refuse pile and the Department described the current mine water treatment that is being funded from a trust fund administered by the Department. Additionally, Department staff explained plans that are being considered to convert the chemical mine water treatment to a passive treatment system to save on treatment costs. The Pittsburgh Coal site is a property that a private developer is planning to develop which will result in reclamation of the abandoned mine lands at the property. The Botanical Gardens site has abandoned mine lands within the boundaries of the park. There are plans to seek authorization to remove some coal in connection with site preparation pursuant to one or more Government Financed Construction Contracts (GFCCs), which would result in reclamation of the abandoned mine lands at no cost to the taxpayers.

Members/Alternates in attendance: David Osikowicz (Chair), Stan Geary (Alternate), Burt Waite (Member), David Strong (Member), Jack Chamberlin (Member), and Dave Mankamy (Member).

Others in attendance: Bruce Golden (WPCAMR), Andy McAllister (WPCAMR), Jeffrey Gerard (WPCAMR), Jim Charowsky (DEP), Mike Terretti (DEP), Joseph Taranto, III (DEP), Richard Morrison (DEP), Patricia Davenport (DEP), and Bill Allen (DEP).

#### **Meeting Called to Order**

Chairman David Osikowicz called the meeting to order at 1:35 p.m. He welcomed everyone and asked that they introduce themselves.

Since there was not a quorum of members in attendance, Dave deferred the vote on April's meeting minutes to the next meeting.

## Correspondence

The Board received two letters, one from U.S. Senator Santorum and one from U.S. Congressman Platts, in response to the Board's letter concerning the Abandoned Mine Reclamation Fund. Both letters expressed support of the Fund.

Chairman Osikowicz mentioned the letter the Department drafted for the Board's review regarding the creation of federal Good Samaritan legislation. This letter will be voted on at the October meeting.

## Committee Reports

- No Policy Committee report.
- Reclamation Committee report.  
David Strong raised the following questions/concerns:
  - Beneficial Use - Who has primary authority: Mining, Solid Waste, or Air Quality? Is there a Technical Guidance Document (TGD) or legal clarification available in this area? Mr. Strong noted that different regions seem to be following different procedures.
  - Toby Creek Watershed – How do these type projects continue to be funded?
  - Treatment Facilities – DEP staff is currently running many of these facilities. Why can't this be outsourced?
  - Manganese Issues - Is federal assistance forthcoming in raising the limit? Bill Allen, DEP advised that some individuals from EPA have toured sites in Pennsylvania and requested data. This data is being compiled. Dave Strong wondered how the MRAB might assist in this area.
  - Mine Pool Task Force – Mr. Strong wanted to know what plan was in place to keep this going. Mike Terretti explained that the mapping of mine pools has been charged to District Mining Operations, and that the California DMO is doing this through GIS and much of the information is available. The real challenge is how to market this information and estimate the financial costs involved with treatment.

Dave Osikowicz suggested Dave Strong formalize some of the questions/issues he had raised and provide them to the department prior to having them placed on the October meeting agenda. Alternatively, he could call a reclamation committee meeting to discuss the issues and work with DEP in preparation for discussion at the October Board meeting. Burt Waite suggested a committee meeting.

In response to Mr. Strong's question about the Toby Creek Watershed issue, Bruce Golden said WPCAMR has received a Growing Greener 2 grant for a



quick response program. This will provide emergency repair monies for Growing Greener 2 type projects. Bruce said the way to get the assistance would be to talk to a local watershed manager.

Dave Strong will be drafting a summary of each of these issues and provide this information to all members and then hold a committee meeting. The Department will have these items placed on the October meeting agenda for further discussion.

- No Regulation, Legislation and Technical Committee report.

### **Federal Good Samaritan Legislation**

Bill Allen (DEP) provided an update on federal Good Samaritan legislation. A few weeks ago Joe Pizarchik, representing Pennsylvania in conjunction with IMCC, met with EPA to discuss the Administration's version of the Good Samaritan bill. There are currently three bills; none of them include coal. The bills are related to CERCLA type situations. Mike Terretti shared that the IMCC states are generally in favor of a bill. DEP would like to see coal added to any bill that is considered.

### **Blanket Bond Program Update**

Bill Allen advised the members that the program has been implemented and was effective July 1. Mr. Allen mentioned that Amerikohl was pre-qualified and is working to get their numbers together.

Dave Osikowicz mentioned that he was made aware this week that Conversion Assistance Bonds and Financial Guarantees cannot be part of this program. He didn't realize this when the Board reviewed the TGD. Dave feels Blanket Bonding can really make a difference for small to medium size operators and questioned whether or not this can be changed.

Mr. Allen said that the program was established via policy and can therefore be changed. He explained one of the approaches the Department was taking was trying to reduce its risk.

Dave Osikowicz requested this be placed on the agenda by the Department to be discussed further at the next meeting. He feels that DEP should be careful not to create policy that discourages re-mining.

### **Mine Subsidence Insurance, GIS Presentation**

Mike Terretti introduced Joseph Taranto from the California District Mining Office. Mr. Taranto provided information about GIS mapping and the different mapping information available. Joe also provided a Power Point presentation outlining the capabilities of the system and how it is utilized in regards to underground mine mapping and also the Mine Subsidence Insurance Program. Mr. Terretti and Mr. Taranto explained that the Department is working to get mapping information

available on-line for the public through the Pennsylvania Historic Underground Mine Mapping Information System. The Department is working to locate and map refuse piles as well. This is a project that is being worked on as time to assist in gaining historical mining information.

### **Water Supply Replacement and O&M Costs**

Bill Allen informed the Board that the proposed Technical Guidance Document (TGD) is out for comment until July 24. No comments have been received.

A release form was prepared to be used with the guidance. Comments were received on the form from both Stan Geary and CONSOL. Some revisions will be made to the TGD based on these comments. There were three bond forms created as well: a surety bond form, a collateral bond form, and at CONSOL's request, a multiple water supply collateral bond form which would cover all affected water supplies on a particular permit.

Stan Geary questioned why this TGD only mentions bonds and why the operators aren't permitted to establish trust funds to cover their O&M cost obligations. Mr. Allen said that the Department was trying to keep things as simple as possible and thought limiting the options was best. Stan was asked to submit his comments on this for Departmental review.

Stan also questioned whether or not a bond could be collateralized with a trust. Richard Morrison told him that if this was permitted by statute than it could be done.

Mr. Allen stated that the Department's next step with regards to water supply replacement and O&M costs is establishing regulations. Adoption of such regulations was included in the Department's Regulatory Agenda that was recently published in the *Pennsylvania Bulletin*. These proposed regulations will be shared with the Board when appropriate.

### **Storage Tank Technical Guidance Document Update**

Bill Allen informed the Board that this TGD was effective July 1, 2006, and that a mass mailing was sent from the Department to the industry the week prior to July 1. This mailing included a copy of the new Tank Inventory Form submission of which will be phased in over the next 12 months. The Department is working to revise the sections of Permit Application Module 10 dealing with storage tanks to ensure unity between the Module and the TGD.

### **Mine Opening Blasting Proposed Regulation Update**

Bill Allen shared that the proposed regulations were approved by the EQB at their May 17 meeting. The regulations are presently undergoing internal review. After internal approvals are received, they will be published in the *Pennsylvania Bulletin* as proposed regulations for comment. The link to the published regulations will be

emailed out to the Board when available. The Department expects these proposed regulations to be published within the next few weeks.

### **Reclamation Fee Elimination Proposed Regulation Update**

This proposed regulation was also approved at the May 17 EQB meeting and is on the same track as the proposed Mine Opening Blasting Regulation Package. The link to the published regulations will be emailed out to the Board when available. The Department expects these proposed regulations to be published within the next few weeks.

### **Surface Mine Safety Update**

Mr. Allen informed the Board that the Department is working to revise Chapter 209. The Department will be incorporating by reference various MSHA regulations. DEP does not want to put operators in a situation where they have multiple standards to meet between the state and MSHA, but rather eliminate any inconsistencies.

The Department is in the process of conducting preliminary outreach meetings. The Department is planning to have six to ten additional outreach meetings in various areas of the state in an attempt to reach those most affected by these regulations.

Mr. Allen asked the Board for feedback on any additional outreach methods they would suggest for reaching those that do not typically attend meetings.

Bill Allen also discussed one item as a “heads-up”. The Department is in the preliminary stages of looking to review and update Chapters 86-89. This update was inspired by some program deficiencies identified by OSM.

### **New Business**

Mike Terretti provided a field trip briefing. The field trip schedule included the following locations: the LTV-Banning site, a Pittsburgh Coal site and the Botanical Gardens.

Mr. Terretti told the Board that the Department would be interested in receiving any ideas or suggestions the Board might have on how DEP might facilitate moving forward with these sites.

The Board members were asked to meet at the California District Mining Office at 9:00 a.m. the following morning. The field trip was scheduled to end at approximately 4:00 p.m.

### **Adjournment**

Dave Osikowicz thanked everyone for his or her attendance and adjourned the meeting.

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## **October 26, 2006 (Harrisburg)**

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The second full Board meeting during the reporting period was held at the Rachel Carson State Office Building in Harrisburg on October 26, 2005.

Members/Alternates in attendance: David Osikowicz (Chair), Stan Geary (Alternate), Burt Waite (Member), David Strong (Member), Jack Chamberlin (Member), and Dave Mankamyer (Member), Duane Feagley (Alternate), Richard Fox (Alternate), Susan Germanio (Alternate), Edward Helfrick, Jr. (Member), Robert Hughes (Alternate), Bruce Tetkoskie (Member), and Susan Wilson (Alternate).

Others in attendance: Tara Smith (Rep. Shaner's Office), Andy McAllister (WPCAMR), Deb Wilson (Jefferson County Conservation District), Todd Beers (JCCD), Steve Hoffman, Curtis Kratz (Penn E & R), Jim Leigey (PA Game Comm.), Jim Charowsky (DEP), Harold Miller (DEP), Joseph Pizarchik (DEP), John Meehan (DEP), Roderick Fletcher (DEP), Brian Bradley (DEP), Pam Milavec (DEP), Nicholle Harman (DEP), and Bill Allen (DEP).

### **Meeting Called to Order**

- Chairman David Osikowicz called the meeting to order at 10:00 a.m. He welcomed everyone and asked that they introduce themselves.
- David Osikowicz moved to approve all the minutes as presented. Stan Geary seconded the motion. The Board unanimously agreed to accept the minutes as presented.

### **Correspondence**

- The Board was not in receipt of any correspondence.
- David Osikowicz moved to approve the letter supporting the Federal Good Samaritan Legislation. David Strong seconded the motion. The Board unanimously agreed to approve the letter as presented.

### **Committee Reports**

- No Policy Committee report.
- Reclamation Committee Report.
  - Discussed Mine Pool Task Force issues. An update is needed from the Department on Mine Pool Task force issues. Some work is needed on addressing Operational and Maintenance activities on treatment systems.
  - Dave Strong will have a committee meeting one week before the January MRAB.
- No Regulation, Legislation, and Technical Committee Report.

## **Sugar Camp Run Discharge Presentation**

- The Jefferson County Conservation District (Deb Wilson, District Manager and Todd Beers, Research Technician) gave a presentation on their Sugar Camp Run Discharge reclamation project. The presentation included:
  - Trying to find ways to market the water.
  - Trying to reduce sulfates in the water for public consumption.
  - Ultimate goal is to clean the stream and restore the fishery. They will achieve their goal of reducing the iron and reducing the main discharge.
  - BAMR has been a great help to this project.

## **Bond Rate Guidelines Update**

- Bill Allen, DEP, provided the Board with a Power Point presentation summarizing cost increases and the resulting interim Bond Rate Guideline calculations.
  - The Department is hoping to be on target to have the Bond Rate Guideline for next year published so they are effective in April. The data analysis has been done for the data received through the first nine months of 2006. The focus on the preliminary calculations was on grading and revegetation. The amount is high compared with current numbers. More calculations are needed.
  - Revegetation rates are increasing from \$100 to \$120. Revegetation and grading costs are the two primary rates that drive the bond cost. The industry should be prepared to put up additional bonds. The technical guidance document for full cost bonding is being revised to provide that current bond rates will be used for each annual review. This should be published as final in November. With the next annual review, the new rates will apply.
  - The Department has requested that the next MRAB meeting be scheduled later in the month to enable them to finalize the data for the Board. The Board expressed concerns about the affect the bond rate increases may have on small operators. The Department has been encouraging operators to bid on projects to keep the cost down. If the numbers hold, there could be a 20 percent increase in the bonds.
  - The Department will present the calculations for the final quarter at the January MRAB Meeting
  - The Regulation, Legislation, and Technical Committee will meet one week before The January MRAB meeting to review and comment on the final calculations.

## **Water Replacement Supply Operation and Maintenance**

- Harold Miller discussed Water Replacement Supply Operation and Maintenance issues. The TGD was open to public review and comment. The final draft is in the process of being finalized.
  - This document provides two means by which to deal with a situation where a replacement water supply is more costly to operate and to

maintain. One is that the operator posts a bond and pays the amount of the increased cost and the other is to reach a settlement with the property owner that brings a final resolution.

- The draft of this document was made available late last summer for review and comment. DEP received two sets of comments from industry. The comments were helpful and resulted in many changes in the final draft that is currently in the process of final approval. The document is anticipated to be final sometime in November.
- The Department is revising two forms. The Consent to a Lesser Water Supply form was modified to make it applicable in situations where a water supply was lesser in context of its yield, quality, or the fact that the water supply is more costly to operate. Another key modification is the addition of a set of instructions. Another document that was revised is the Release of Liability. Both of these documents were finalized and available on the DEP e-Library.
- Joseph Pizarchik notified the Board that Harold Miller had been filling in for Bill Allen while Bill was on temporary assignment as the Acting District Mining Manager for the Pottsville District Mining Office. Mike Terretti has selected Tom Callaghan from the Bureau of Mining and Reclamation as the new Mining Manager, starting October 28, 2006.

### **Surface Mine Safety Regulations Update**

- John Meehan briefed the Board about updates to Chapter 209 Safety Regulations.
  - The safety regulations for surface mines are being considered for revision to improve safety. The current regulations only cover bituminous and anthracite surface mine blasting. The Department does not have any safety regulations on surface industrial mineral mines. The Department proposes to replace the existing Chapter 209 with selected provisions of the MSHA regulations, which will eliminate inconsistencies.
  - Another factor motivating the regulatory initiative was a five-year Penn State study. That study concluded that the majority of violations of MSHA's regulations and fatalities involve operating unsafe equipment, fire hazards, and housekeeping. The Department is looking at those areas to determine which regulations to adopt.
  - Outreach involved sending questionnaires and letters to all of the licensed operators in the state. Approximately 800 letters were sent out. DEP also held 8 public meetings, asking stakeholders to attend and provide input. Information was posted on the internet. DEP held presentations for the Pennsylvania Mining Professionals and a few other organizations as well.
  - The department does not intend to use MSHA's enforcement strategy.
  - BMR expects to present a draft of the revised Chapter 209 Safety Regulations to the MRAB at their January 2007 meeting.

### **Reclamation Fee Comments and Response**

- Joe Pizarchik provided an update on the proposed rulemaking to eliminate the Reclamation Fee, and the comments received regarding this proposed rulemaking. Earlier this year, the EQB approved the proposed rulemaking to eliminate the \$100 per acre reclamation fee that applies to surface mines. The public comment period is closed. EQB received comments from 6 different associations. They are quite thorough. There are about 30 to 40 pages of comments. Many of the comments are technical and legal in nature. DEP is working to get the response to comment document prepared so that the final rulemaking package can be presented to the Board and then the EQB.

### **BAMR Projects/Status Report**

- Brian Bradley, DEP gave an update on current, completed, and planned BAMR projects.

### **New Business (Proposed Meeting Dates 2007)**

- The proposed MRAB meeting dates for 2007 were revised to January 25, April 26, July 12, and October 25. Burt Waite moved and Jack Chamberlin seconded the motion; the motion was approved by the Board.
- Stan Geary asked for an update on the Greyfields Bill. Joseph Pizarchik informed the Board that the bill is going through the internal process.
- Stan Geary stated that in August OSM published their amended revegetation regulations and inquired if the Department reviewed those and wanted to know if the Department plans to make changes to the state regulations. Joseph Pizarchik informed the Board that no changes are being contemplated at this time. This issue will be added to the agenda for the next Board meeting.
- Dave Osikowicz spoke about the Blanket Bond report from the July MRAB meeting. He would like a report on how the Blanket Bonding Program is working and about not including the conversion assistance bonds. He would like to look into including financial guarantees in the Blanket Bonding Program.
  - Joseph Pizarchik updated the Board on this issue. The Department has the Technical Guidance Document completed. The bonding program is available for operators who want to participate. An operator would have to get pre-qualified. No operators have come forward yet.
  - Mr. Pizarchik also addressed Dave Osikowicz's comment about including financial guarantees in the Blanket Bonding program. The Department will keep the Board updated on this issue.
- Mr. Pizarchik notified the Board that the Interstate Mining Compact Commission has an annual Reclamation Award and the National Mineral Education Award. They are soliciting applications for their reclamation award. Copies of the application packet were offered.
- Mr. Pizarchik provided an update on the Mine Opening Blasting proposed rulemaking, which also addresses blasting and safety on public roads. The changes were approved as proposed by the EQB. The Department has

received some comments on the proposed regulation package and the Department is in the comment period for the Independent Regulatory Review Commission.

- Joseph Pizarchik also spoke of the responsibility for reclaiming primacy forfeited mine sites which was transferred from the Bureau of Abandoned Mine Reclamation (BAMR) to the Bureau of District Mining Operations (BDMO) and the Bureau of Mining and Reclamation (BMR) a few years ago. BDMO is doing the fieldwork and BMR is handling the contract management and fiscal end. BMR has been working with OSM to identify the forfeiture sites that have a treatment system on them. One of the main goals is to not build treatment systems unless they can be operated and maintained. BMR's overall objective is to see what they can do to maintain the forfeited sites that are out there. The districts are continuing to work on the backlog of forfeited mine sites and BMR may put together a report for the Board as to the progress the districts have made on forfeited mine sites. There are a number of sites in the works and as they get those sites taken care of the department will be in a better position to assess the discharges on the forfeited mine sites. The goal is not to focus on just bond forfeiture discharges, but also on discharges on abandoned mine sites as well. The department is focusing on where it can get the biggest bang for their buck. Mr. Pizarchik mentioned looking into using Growing Greener money to assist in the continued operation and maintenance of these treatment systems.

Dave Strong asked if there was an update on the manganese issue with EPA. Joseph Pizarchik stated that EPA had contacted states and asked what type of data or information was available. Pennsylvania and other participating states provided information to EPA. Mr. Pizarchik believes that EPA is still working on this issue. DEP will report to the Board as to the progress the District Mining Offices have made on forfeited mine sites.

#### **Open Time (Comments/Questions from Audience)**

- No comments.

#### **Adjournment**

Dave Osikowicz thanked everyone for their attendance and adjourned the meeting at approximately 12 p.m.

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**January 25, 2007 (Harrisburg)**

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The third full Board meeting of the reporting period was held in the Rachel Carson state Office Building in Harrisburg on January 25, 2007.

Members/Alternates in attendance: David Osikowicz (Chair), David Strong (Member), Janis Dean (Alternate), Duane Feagley (Alternate), Jack Chamberlin



(Member), Stan Geary (Alternate), Susan Wilson (Alternate), and Walter Heine (Member).

Others in attendance: Jim Charowsky (DEP), Mike Terretti (DEP), Joe Pizarchik (DEP), Richard Morrison (DEP), Marc Roda (DEP), John Meehan (DEP), Curtis Kratz (Penn E & R), George Rieger (OSM), Bruce Carl (DEP), Patricia Davenport (DEP), Bill Allen (DEP), Tara Smith (Representative DeWeese's Office), Don Barnes (DEP), Jeff Kost (PA Game Commission), Fred Sherfy (OSM), Brian Bradley (DEP), Scott Roberts (DEP), Zack Church (DEP), Randy Lindenmuth (Lehigh Engineering), Robert Allen (Reading Anthracite), Bruce Golden (WPCAMR), Richard Lamkie (DEP), Roderick Fletcher (DEP), Eric Conrad, and Jeff McNally.

### **Meeting Called to Order**

Chairman David Osikowicz called the meeting to order at 10:00 a.m. He welcomed everyone and asked that they introduce themselves.

Dave asked for a motion to approve the October Mining and Reclamation Advisory Board (Board) meeting minutes and the January 18 committee meeting minutes. Jack moved to approve all the minutes as presented. Dave Strong seconded the motion. The Board unanimously approved the Board and committee meeting minutes.

### **Correspondence**

The Board was not in receipt of any correspondence.

### **Committee Reports**

- No Policy Committee report.
- Reclamation Committee report.

Dave Strong reviewed the committee meeting held at the Moshannon District Office January 18. The meeting focused on the orphan mine discharge resolution action plan, which ties in very closely to the AML funding issues. It was felt that the Department's resolutions should be reviewed and refined in light of the new funding. A majority of the meeting focused on discussion about the funding. The Secretary has asked CAC to get involved in soliciting input. Dave Strong said they hope to have more refined recommendations for the Department at the next meeting. Dave will be holding another committee meeting to finalize the committee's recommendations to the full Board after meeting with the CAC and Scott Roberts, Deputy Secretary, Mineral Resources Management.

- Regulation, Legislation and Technical Committee report.

Jack Chamberlin provided a report to the Board on the meeting held in the Moshannon District Mining office on January 18 to discuss the 2007 Bond Rate Guidelines (BRG's). Several suggestions were made on how the

statistical analysis could be looked at differently. One suggestion was using the actual lowest bid received instead of averaging the three lowest bids received. The use of 2 years of statistics instead of the use of 3 years of statistics was looked at in addition to the comparison of BAMR sites to a current mining sites and the differences between them (perhaps some considerations that should be taken into account). The committee also felt that some sites should be removed from the statistics completely because they do not accurately depict mining activities the way things are being done now.

## **BAMR Project Status Report**

Brian Bradley of BAMR provided the Board with an update on the status of BAMR reclamation projects.

## **2007 Bond Rate Guidelines**

- Bruce Carl, DEP, reviewed the figures that were compiled at the suggestion of the Regulation, Legislation and Technical Committee. Bruce mentioned that mine sealing costs have not been looked at for sometime. The Department will be looking at this data and may be amending the guidelines. Bruce requested input from the Board on how mine sealing should be addressed.

Walter Heine asked what the Department's experience with forfeitures has been over the past few years. Has the amount of money generally been sufficient? Mike Terretti said there have been several forfeitures. Some have been adequately bonded but some have not. Some sites have had enough coal reserves remaining to have other operators come in and re-permit the area.

Dave Osikowicz questioned how many total permits have been covered by Conventional Bonding. He also asked how many total permits were converted or issued, how many forfeitures there have been, and how many sites have not been resolved by either transfer, the bonding company doing them, etc. Bill Allen said there have been 8 sites forfeited. Joe Pizarchik stated that 2 of the forfeited sites were oddities, which had been discussed with the Board at previous meetings.

Jack Chamberlin recommended the full Board endorse the Bond Rate Guidelines (BRGs) as presented. Stan Geary moved that the MRAB endorse the BRGs with the understanding that between now and the creation of the 2008 BRGs that the Department work with the Regulation, Legislation, and Technical Committee to make sure that the BRGs are reflective of conventionally bonded sites.

Stan felt a few items that should be taken into consideration are, how selective grading is being applied, identifying bid contracts that are comparable to conventionally bonded sites, and comparing bituminous and anthracite contracts for significant differences. Walter Heine seconded Stan's motion.

Dave Osikowicz applauded the Department for hearing the Board and being open to ideas and concepts. Duane Feagley agreed with Stan's motion and said he feels that the Regulation, Legislation, and Technical Committee and the Department should begin working on the 2008 BRGs right away. Joe Pizarchik suggested the Department collect the first quarter data from 2007 prior to meeting, with a quarterly break down of data from that point.

The Department will try to have a preliminary report on the 2008 BRGs for the Board at the April 26 meeting.

The Board voted unanimously to endorse the Department's 2007 BRGs.

### **OSM's Revegetation Regulation Changes – Effect on DEP Regulations**

- Bill Allen provided the Board with an update on OSM's revegetation regulation changes and the effect these changes will have on DEP regulations.

The four areas affected by the changes were topsoil thickness, success standards for revegetation, land uses, and revegetation standards for trees.

Regarding topsoil thickness, the Department does not see a benefit to adopting OSM's additional wording. Regarding success standards, the federal regulation change was revised to relieve an administrative burden on the Commonwealth and other regulatory authorities and will not result in a regulatory change in Pennsylvania. With respect to land uses, the concept of shelterbelts was eliminated as a land use and undeveloped land was added. This should not impact Pennsylvania because the Commonwealth did not list shelterbelts as a land use and does have a land use similar to undeveloped land. In regards to the revegetation standards for trees, OSM has identified a program deficiency where Pennsylvania's program is not as effective as the federal regulations. It relates to the 80/60 standard: 80% of the trees must be in place for 60% of the liability period in order to qualify for final bond release. Pennsylvania may have to update the revegetation standards for trees.

Walter Heine questioned whether or not any of these regulations have an affect on the Chesapeake Bay Initiative. Joe Pizarchik explained that mining is not authorized within a stream buffer zone without a special approval process being followed. The Department is trying to encourage reforestation for any areas mined within a stream buffer zone (this has to consider the land owner's wishes and post mining land use as well).

Bruce Golden asked if the Department has taken the Appalachian Reforestation Initiative into consideration. Bill Allen confirmed that the Department has. Pennsylvania has been fairly successful in getting reforestation completed. The District Mining Offices are being encouraged to look for opportunities for reforestation to be included in primacy bond forfeiture site reclamation contracts.

## Surface Mine Safety Regulations

- Bill Allen, DEP, explained that the Commonwealth is looking to update Pennsylvania regulations through the adoption of certain specific federal MSHA regulations.

Bill said that the Department reviewed a Penn State study titled “Safety Conditions in Small Bituminous Surface Mines in Pennsylvania”. The conclusions of the report identified the following areas that result in accidents: failure to maintain machinery and equipment in a safe condition, operating equipment that is not in a safe condition, housekeeping issues, and fire hazards. The Department recognizes that regulations will not prevent all accidents; however, the existing regulations are old and need to be updated. The Department is looking at this as an opportunity for mine inspectors to focus on safety and to prevent accidents at mining operations.

Many of the revisions will adopt MSHA regulations. For some of the revisions however, Pennsylvania specific regulations are needed. The Department is focusing on items the mine inspectors see when they are at the mine sites and that they have the expertise to deal with. Mike Terretti stated that the Department’s focus is on preventable accidents and assisting with general safety issues.

A total of 13 outreach meetings were held to garner input from the regulated community.

Stan Geary asked if the Department was looking for the MRAB’s endorsement, Joe Pizarchik confirmed that the Department was looking for the MRAB to take a position on this proposed regulation. Stan shared a few general comments for the Department’s consideration prior to forwarding the regulations to the EQB.

Dave Osikowicz asked for a motion. Walter Heine abstained from the vote as he is a member of the EQB and has not had an opportunity to review the proposed regulation. Stan moved to endorse the regulations for submission to the EQB as proposed rulemaking. Jack Chamberlin seconded Stan’s motion. Susan Wilson asked the Department to describe what types of things were not incorporated by reference from the MSHA regulations. Bill Allen used gas monitoring as an example. The Department does not have the equipment or training required to do gas monitoring. Electrical inspection would be another example of where staff does not have the expertise to monitor. The Department is focusing more on common sense items, general issues, and working toward compliance assistance. The motion to endorse the regulations carried unanimously.

## Mine Opening Blasting

- Rick Lamkie reviewed the mine opening blasting regulations. Rick explained that this proposed rulemaking addresses blasting that is close enough to the surface to affect the public. Dual regulation in this area has led to confusion and standards not being effectively enforced. Part of the clarification provided is that surface blasting regulations apply to mine opening blasting throughout the entire shaft development. Also clarified was that ground vibration regulations in Chapter 211 apply to all mining and blasting operations. Mine opening blasters must have both the skills necessary and a complete understanding of both surface and underground effects that can occur from blasting. The proposed regulations allow for both day and night blasting so that the construction of the shaft can be continuous. This is necessary to provide for the stabilization of the walls in the shaft to protect the workers in the shaft. Further clarification was provided on “noise” and “air-blast” as well. All blasting in connection with the construction of an underground mine opening is surface coal mine blasting. An additional change was made in regards to barricading roads at surface coal mine blasting operations, as this is not always the safest alternative for the public.
- It is DEP’s position that this regulation package is in compliance with Executive Order 1996-1. Rick explained that the Department has provided vibration limits since 2001 that have been adhered to, so that damage does not occur to buildings. Any waiver from these limits is a civil matter between the permittee and the building owner. The Department received a comment asking whether or not a waiver of regulatory limits would negate insurance coverage. The Department cannot make this determination, as it is beyond the scope of the Department.

Walter Heine questioned whether or not a waiver form to the homeowner could include language informing the homeowner that this waiver may affect his homeowner insurance coverage. Rick explained that this is strictly a civil issue. Joe Pizarchik informed the Board that the Department would not be creating a waiver form. It is felt that this is beyond the Department’s scope and would strictly be a civil matter. Any questions a building owner would have in regards to insurance coverage should be directed to their provider.

Stan Geary stated that these regulations have already been approved by the EQB. Joe Pizarchik clarified that they have been approved as proposed rulemaking and are now being brought back to the Board as a final rulemaking. After the Board’s consideration, the next step for the package is to be taken back to the EQB as final rulemaking.

Stan stated that there had been long discussions previously in regards to this proposed rulemaking, which resulted in a 4-4 vote. The Department had then moved forward to the EQB. He reiterated his submitted comments. Stan does not feel this activity should be considered a surface mining operation. Stan feels that the Bituminous Coal Mine Act has covered this as an underground

activity for decades. He further stated that if up for vote, he would vote against these proposed regulations.

Joe Pizarchik stated that the Department has a different perspective. The Department would not be presenting it if it were felt that the Department did not have the legal authority to do so. The Department feels this regulation is appropriate and requested the Boards endorsement to move forward.

Stan moved that the Board not endorse the proposed final regulations. Jack Chamberlin seconded Stan's motion. Sue Wilson questioned the existing timeframe for this regulation. Joe Pizarchik thought that time probably will not resolve this issue as it is a difference of interpretation.

The Board took a vote. The motion not to endorse the rulemaking carried 4-3, with Walter Heine abstaining from the vote.

### **Reauthorization of the Abandoned Mine Fund**

- Rod Fletcher, DEP, reviewed the federal Abandoned Mine Fund (Fund), which was reauthorized by Congress on December 8, 2006. This will go into effect with the start of the 2008 federal fiscal year (October 2007). The states will receive funding that is not based on congressional appropriation. Also, the collection of fees has been authorized to continue for 14 years but at a lesser rate. This reauthorization means an approximate increase in revenue of 2 billion dollars. The states have been given the opportunity to set aside up to 30 percent of their annual distribution to apply toward watershed and AMD issues. The funding received is based upon Priority 1 and Priority 2 projects. Decisions will need to be made on how this money should be used. Another important provision for Pennsylvania is the requirement that OSM develop regulations specific to providing remaining incentives. The money Pennsylvania is to receive through the Fund will be phased in.

Scott Roberts, DEP, talked about implementing public participation in the process. Scott thanked everyone involved and those that worked hard on getting this through. Scott explained that the Department's efforts directed through BAMR are guided by "Pennsylvania's Comprehensive Plan on Abandoned Mine Reclamation" which was approved by OSM's abandoned mine reclamation program. Public participation is important to the Department in deciding how to use the money received to get the biggest bang for the buck. This is a great opportunity and it needs to be done right. The Department may not have an opportunity like this again.

Dave Osikowicz questioned what was happening with the money that was set aside for health benefits for 'orphan miners', are there any provisions for what happens when there is no longer an obligation there? What will happen to that money? Rod explained that once the needs are satisfied the funding would end.

Rod further explained that the money going to each state is not money that comes in and is then set aside. It is money that is appropriated pending a need. When there is no longer a need there, the money will stay in the treasury, it will not be transferred.

Dave Osikowicz asked if some of the money could be used to increase staffing to develop these projects. Rod confirmed that using a portion of the money toward increased staffing was a possibility.

### **Primacy Bond Forfeiture Update**

- Don Barnes, DEP, provided an update on primacy bond forfeitures. Don referenced the July 8, 2004, presentation given in Hazelton that introduced the transition of the Primacy Bond Forfeiture Program to District Mining Operations (DMO).

Primacy bond forfeited sites are those mine sites that have been abandoned after the effective date of primacy in 1982. The first thing DMO did was create an accurate inventory of these sites. Statewide there were 111 primacy bond forfeited sites. There has only been 1 project competitively bid under the three-year plan. There have been 11 sites that have not been advanced. Of these sites, five are large refuse piles and six have not yet been advanced. The Department has until July 1 to get these six sites on track (in keeping with the three year plan). There has been one conventionally bonded site under primacy bond forfeiture that has been competitively bid. In this case, the bid amount far exceeded the amount of the bond. Checking with Teretti

The system has been improved by the development of a more effective tracking system, streamlining the procedure for collecting forfeited bonds, simplifying bid packages, preparing supplemental permits internally, exhausting all other options before utilizing a contract, and making the frequencies of inspection fit with the activity on the site. Don said the Department has appreciated the support of the Board and he hopes that it has been successfully demonstrated that their trust has been rewarded.

### **Proposed Final Reclamation Fee and Bond Forfeiture Package**

- Bill Allen, DEP, summarized the comments and responses received on the reclamation fee and bond forfeiture proposed rulemaking.

There was only one commentator, Citizens for Pennsylvania's Future. The comments seemed to revolve around 4 basic areas. They felt that the elimination of the reclamation fee would violate federal law, discontinuation of the fee would be unwise, challenged the Department's rationale in the preamble for the repeal of the fee, and they pointed out that there is currently outstanding litigation regarding the reclamation fee and the alternate bonding system. They felt the impact of the litigation should be accounted for.

With respect to the elimination of the fee violating federal law, the Department disagrees. The alternate bonding system does not specifically require a reclamation fee and a conventional bonding system and reclamation fee are inconsistent.

In regards to the comment that discontinuing collections would be unwise, in a full cost bonding system, the bond should be adequate to accomplish the objectives of full-cost bonding. When the Department began the conversion process, it began with sites that were actively mining coal. These sites were all converted within a 1-year period. The Department would be foregoing approximately \$200,000 per year by no longer collecting reclamation fees.

In reference to the challenge to the rationale in the repeal, in the preamble, the Department refers to the commitment to repeal the reclamation fee with conversion to a conventional bonding system. The Department's commitment was to propose the elimination of the reclamation fee once the conversion of the active surface coal mining sites was complete. The conversion of all surface coal mines actively mining coal was completed between August 2001 and mid 2002. Under full cost bonding, a reclamation fee should not be necessary and is inconsistent with the whole idea.

The Department agrees with the comment that the EQB is not bound by the commitment. In regards to the comment regarding the impact of the outstanding litigation, the court has granted a motion requesting the dismissal of the case.

The progress report, as of a week ago, on how the Department is doing with getting the financial assurance for the alternative bonding system on active mine discharge permits was provided as well. There are 128 agreements the Department feels will be needed that will cover 270 facilities treating approximately 400 discharges. Of these agreements, 56 have been finalized. Of the 56 that are finalized, 31 have been bonded. There were 14 fully-funded trusts in place and 11 partially funded trusts that are working on a payment schedule.

The IRRC did not submit comments on this proposed rulemaking package. The Department is bringing this package back to the Board for its recommendation on the final rulemaking. No changes were made on this package between the proposed and final rulemaking package.

Susan Wilson made the comment that based upon the information provided, she felt that there was still a lot of work to be done. It appears the Department is about halfway to where it needs to be with obtaining financial assurance for all sites with long term water treatment obligations. She feels that proposing the elimination of the reclamation fee may be premature at this point.

Joseph Pizarchik responded by explaining the commitment was made by the Department to eliminate the fee once the active operators had their sites fully



converted to the Conventional Bonding System and were fully-bonded and the Department is looking to follow through on that commitment.

One comment made by Dave Osikowicz was that continuation of the fee is taxing operators for a liability they did not commit.

Susan Wilson moved that the rulemaking be held until conversion is more complete. She feels it is premature to eliminate the fee and recommends the rulemaking not be moved forward at this time. Walter Heine seconded Sue's motion. A vote was taken on the motion 4 in favor, 4 opposed.

Stan Geary then made a motion that the Department move forward with the rulemaking. Jack Chamberlin seconded Stan's motion. This vote was also 4 in favor and 4 opposed.

### **New Business**

Dave Osikowicz mentioned the need for someone to develop the annual report.

Duane Feagley told those present that the Pennsylvania Anthracite Council will be hosting a dinner on April 12, in Hazelton, to honor Fred Wolfe, former Chairman of the MRAB. Anyone who wants to attend should let Duane know.

Bruce Golden, WPCAMR, provided their newsletter Web site and offered copies of a draft informational pamphlet they have created to extend their outreach to anyone interested.

Joseph Pizarchik thanked everyone on the Board for their input, advice, and recommendations.

### **Adjournment**

David Osikowicz requested a motion for adjournment. David Strong made the motion and the meeting was adjourned.

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### **April 26, 2007 (Harrisburg)**

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The fourth and final full Board meeting of the reporting period was held in the Rachel Carson State Office Building in Harrisburg on April 26, 2007.

Members/Alternates in attendance: David Strong (Member), Duane Feagley (Alternate), Stan Geary (Alternate), Susan Wilson (Alternate), Burt Waite (Member), Darrell Lewis (Alternate), Representative Deberah Kula (member), Bruce Tetkoskie (Member), Dave Mankamyer (Member).

Others in attendance: Secretary Kathleen McGinty, Jim Charowsky (DEP), Mike Terretti (DEP), Richard Morrison (DEP), John Meehan (DEP), Curtis Kratz (Penn E & R), George Rieger (OSM), Bruce Carl (DEP), Patricia Davenport (DEP), William Allen (DEP), Tara Smith (Representative DeWeese's Office), Brian Bradley (DEP), Scott Roberts (DEP), Zack Church (DEP), Bruce Golden (WPCAMR), Roderick Fletcher (DEP), Geoffrey Lincoln (DEP), Tammy Masser (DEP), Allen Mankamyer, Kenneth Yingling (Amfire Mining), Eric Conrad (Conrad & Associates), and Ronald Hassinger (DEP).

### **Meeting Called to Order**

In Chairman Osikowicz' absence, Dave Strong called the meeting to order at 10:00 a.m. He welcomed everyone and asked that they introduce themselves.

Dave asked for a motion to approve the January Mining and Reclamation Advisory Board (Board) meeting minutes. Duane Feagley moved to approve the minutes as presented. Burt Waite seconded the motion. The motion was made and the Board unanimously agreed to accept the Board meeting minutes.

### **Correspondence**

The correspondence received by the Board included, Mark Snyder appointing Darrell Lewis as an alternate, Edward Helfrick, Jr. appointing Duane Feagley as an alternate, Citizens Advisory Council reappointing Dave Strong and Burt Waite to the Board, and a letter from Representative Kula appointing Joyce Martin as her alternate.

### **Committee Reports**

- No Policy Committee report.
- No Regulation, Legislation, and Technical Committee Report – Stan Geary mentioned that the Committee will be working with DEP throughout the year to ensure that the Bond Rate Guidelines are both adequate and accurate.
- No Reclamation Committee Report

### **Beneficial Use Permits - Ron Hassinger**

- Ron discussed and distributed a summary of a General Permit for circulating fluidized bed boilers. This is a new Department initiated permit for agricultural plant/animal waste fuel materials. It will be published on May 5 with a 60 day comment period.
- Dave Strong mentioned that it would be helpful to have a quick fact sheet on what needs to be done for mining. He suggests that operators may not have enough information on using these permits. He stated that it is important that these type of plants be supported as they can result in a lot of reclamation being completed. Mike mentioned that OSM was going to be promulgating rules for the use of ash at mining operations and that the Department's mining program was going to be looking at this very closely. OSM has requested comments on this rulemaking.

- The Reclamation Committee would like to see the Department create a quick checklist for operators explaining what steps need to be taken to utilize ash under these General Permits.
- Dave Mankamyer suggested that a task force should be put together to see this through the hurdles and take the obstacles on one at a time to make this work. Somerset County currently imports approximately ten thousand tons of chicken litter a year to help the Chesapeake as part of the nutrient-trading program.

### **Secretary Kathleen McGinty's Comments to the Board**

- Secretary McGinty thanked the members/alternates for their long service to the Board. She said that the advice, perspective, and insight brought to the Department is invaluable. Secretary McGinty stated that she has taken a very strong interest in this part of the Department and has valued the opportunity, with the Board's guidance, to bring a variety of groups to the table. The Department has put out 2 rounds of special requests for proposals to figure out ways that abandoned mine discharges can be seen as more than just a pollution challenge, and perhaps see some energy value in the water.
- A panel of Generals that was put together to examine several issues determined that global climate change represented one of the most significant national security threats this country faces. In releasing this report there was a spotlight placed on water resources. Water, even polluted water, is a priceless resource and can be utilized in many ways.
- The Secretary wanted to enlist the Board's ideas and advice in regards to the newly authorized Title IV program and how best the money can be managed for the remediation of AML challenges. The Secretary explained that the MRAB is in a unique position to inform and moderate expectations. Secretary McGinty mentioned possibly working with the legislature and the designation of a special account that would enable an above usual treasury rate of return on the dollars received so the dollars can grow and provide for a greater ability to chip away at the abandoned mine land water challenges. The Department needs assistance from Citizens Advisory Council and the MRAB in particular, in determining what percentage of the monies should be set aside. The Secretary looks forward to engaging with the Board in figuring out how to utilize these dollars to maximize the opportunity to address the legacy of abandoned mine challenges in Pennsylvania.
- Stan asked what the overhead costs are and how much is spent on the ground. Scott Roberts provided a rough breakdown of approximately 20% of monies used for overhead. Rod stated that BAMR's rough estimate was typically about 85% of a dollar was allocated directly to engineering and construction.
- Dave Strong mentioned subcontracting as a possibility. Scott mentioned that BAMR is looking into partnering with other entities that might see a value in a site being reclaimed. The more we can do projects like this, the more the monies can be stretched.
- The Secretary also mentioned her appreciation for the contribution of Fred Wolfe. She felt very lucky to have met Fred.

## **AML / Title IV Reauthorization Outreach – Susan Wilson**

- Susan explained that CAC is working with Mineral Resources Management to schedule a series of 8 roundtable meetings throughout the Commonwealth to seek public input on how the monies can best be spent. The meetings are being scheduled from the end of May through the beginning of June.
- EPCAMR and WPCAMR are putting together some education materials for distribution. Bruce Golden explained that they've put together a video production. This is a user-friendly presentation, addressing a general audience that explains how Title IV works and what its implications are. There is also a duplex sheet of Title IV basics available.
- Susan will share the dates of the meetings with the MRAB once finalized and is requesting the Board assist with reviewing the input that comes from these meetings.
- Rod mentioned that OSM is still working on the rulemaking. The draft rulemaking is to be published in May and will be available for public comment. OSM hopes to have the rulemaking implemented by September 22.
- Dave Strong mentioned the ash comment deadline is May 17.

## **MRAB Annual Report**

- Dave Strong mentioned that the Board has both last year and this year's Annual Reports to do. Stan volunteered to work on the reports.

## **Proposed Federal Refuse Remining Rule**

- Bill Allen, DEP, advised that OSM published a rulemaking on the remining of refuse piles for comment. Bill highlighted what he felt were the 4 main points of the rulemaking. It would allow reduced data to be presented in the permit application regarding the probable hydrologic consequences of the refuse remining. The regulations would not routinely require a monitoring plan as part of the permit. The rulemaking proposes a reduced liability period for revegetation as well. The Department and IMCC presented comments to OSM on the rulemaking.
- Dave Strong requested an electronic copy of GIS mapping for existing refuse piles. Mike Terretti advised this information was available from the California District Mining Office upon request. This mapping is a work in progress. Dave also asked for the status of the mapping that Joe Schueck had been working on. Dave thinks this information would be important in the outreach. Brian advised that this project was not yet completed. Brian was going to check to see what could be done about getting this project completed and available in time for the outreach.

## **Bond Rate Guidelines (BRG)**

- Bruce Carl, DEP provided a Power Point presentation on 2004-2006 grading costs from abandoned mine reclamation contracts and discussed the difference in costs/bids between Bituminous and Anthracite. Bruce also discussed using

the lowest bid versus using the 3 lowest bids. In the preliminary bidding data compiled so far this year, which consists of 3 contracts, it looks like the bids are more consistent. If this continues, the Department may consider going to the lowest bid. Bruce shared that the normal amount of bidders per contract in previous years was about 5. This year, for the 3 contracts that have been out for bid, there have been between 10 and 14 bidders.

- Bruce also reviewed current trends. Looking at the grading costs, they are currently remaining within the 2007 BRG's. Fuel costs are going up though, which is not a good sign. Bruce also reviewed a short push versus a haul. Bruce is staying in touch with the BAMR design engineers to find out, as contracts are awarded, whether they were short pushes or hauls. At this time, for Anthracite, the average short push was bid at \$.95 and the average haul was \$1.15. For Bituminous, the average short push was \$.93. There are about 10 contracts to be bid by June, which will provide more data. Bruce will therefore, have more detailed information available by the July meeting.

### **Annual Remining Incentives Report**

- John Meehan, DEP, reviewed the annual remining incentives report. In 2006, 880 acres were reclaimed using these programs. The Department is awaiting the MRAB's comments to be added to the report as Appendix A so that it can be finalized and submitted to the legislature. Stan has offered to do the first draft and circulate it, first to the committee, and then to the full Board for comment. MRAB comments are due to DEP by May 15.
- Stan Geary questioned whether or not the GFCC program is being terminated or pared back. Mike Terretti stated that he has not heard further on this.
- Kenneth Yingling questioned whether or not thought was being given to increasing the cap per operator on land reclamation financial guarantees. John Meehan explained that the Department is not, in part due to regulatory requirements and the amount of monies available in the fund. Less than 5 percent of the companies participating are tapped out.

### **BAMR Projects Status Report**

- Brian Bradley of BAMR provided an update on the status of BAMR reclamation projects.

### **New Business**

- Burt Waite brought up the annual field trip and suggested the Board visit Battelle & Winner's demonstration water treatment plant, which is to be running September, October, and November of this year. He suggested the Board not have the July field trip, but instead have a one day meeting and tour/explanation of the plant and this new technology in October. The Board will have a normal July meeting and the Board will be polled at that time to see what the interest would be in the one-day meeting/tour of the demonstration plant.

### **Total Maximum Daily Load and Mine Permit Applications**

- Bill Allen, DEP, explained that the Department is actively working on the concept of issuing permits on streams where TMDL's have been completed. Bill said if anyone has any ideas or solutions, the Department would like to hear them. Bill said the Department will meet with operators and interest groups once they have an idea on how this is going to play out.

### **New Business Continued**

- Duane Feagley asked what the status of the Reclamation Fee Regulation was. Bill informed him that based upon the Board's recommendation, there has been a briefing scheduled with the Secretary to determine what the next step is. The same is true for the Mine Opening Blasting package. Chapter 209 is scheduled for the May EQB meeting.

### **Adjournment**

Upon motion of Dave Strong the meeting was adjourned.

## **Appendix A**

### **BYLAWS OF THE MINING AND RECLAMATION ADVISORY BOARD**

As Amended Dec. 12, 1996

#### **ARTICLE I**

##### Authorization

The Mining and Reclamation Advisory Board is authorized and organized pursuant to Section 18(g) of the Pennsylvania Surface Mining Conservation and Reclamation Act (Act 181 of 1984) as amended by Act 173 of 1992.

#### **ARTICLE II**

##### Purpose

The advisory Board is charged to assist the secretary to expend the funds for the purposes provided by this act and to advise the secretary on all matters pertaining to surface coal mining and reclamation which shall include, but not be limited to, experimental practices, alternate methods of backfilling, selection of reclamation projects, alternate reclamation methods, obligations for pre-existing pollution liability, alteration of reclamation loans, reclamation fees and bonding rates and methods.

#### **ARTICLE III**

##### Membership

The Board shall be comprised of three coal operators, two of whom shall be licensed bituminous surface mine operators and one of whom shall be a licensed anthracite surface mine operator; four public members from the Citizens Advisory Council, who shall be appointed by the council; two members, one from the Anthracite and Bituminous Licensed Professional Engineers, and one from the County Conservation Districts, who shall be appointed by the State Conservation District Commission; four members of the General Assembly, two from the Senate, one member from the majority party and one member from the minority party, who shall be appointed by the president pro tempore; and two from the House of Representatives, one from the majority party and one from the minority party, who shall be appointed by the speaker of the House of Representatives.

A. Board members shall designate an alternate. The chairperson shall be notified, in writing, of such alternate.

B. The Board may recommend to the appointing authority removal of any member not attending, or not represented by a designee, at two Board meetings in a year.

## **ARTICLE IV**

### **Voting**

Members, or designated alternates, shall be entitled to one vote, in person, on all matters that shall come before the Board. No voting shall be done without a quorum, unless otherwise indicated in these bylaws. A majority of the membership of the Board shall constitute a quorum.

## **ARTICLE V**

### **Officers**

The officers of the Board shall be a chairperson and a vice-chairperson.

The chairperson and vice chairperson shall be elected from the membership of the Board, as defined in the Pennsylvania Surface Mining Conservation and Reclamation Act, as amended, and may not be the secretary of the Department of Environmental Protection, or his designee. They shall hold office for a term of one year, or until a successor is elected.

It shall be the duty of the chairperson to preside at all meetings of the Board, call special meetings, prepare and distribute the meeting agenda and perform such other duties as pertain to the office.

It shall be the duty of the vice-chairperson to perform the duties of the chairperson in his/her absence.

## **ARTICLE VI**

### **Administration**

Administrative and clerical duties shall be performed by the Office of Mineral Resources Management, Department of Environmental Protection. A department staff person shall function as a recording and corresponding secretary. Included among these administrative duties shall be:

- A. To give timely notice of meetings of the Board and committees.
- B. To record full Board and committee meeting minutes and keep a permanent file. Board and committee meeting minutes shall be distributed to the full membership. Minutes should be reviewed by the chairperson or vice-chairperson prior to distribution.
- C. To conduct both outgoing and incoming correspondence and maintain a permanent file of such correspondence, and
- D. To perform such other duties as may be requested by the Board, including, but not limited to, travel arrangements, conference calls, etc.



In addition, staff representatives from the Office of Mineral Resources Management shall serve as staff liaison to the Board.

## **ARTICLE VII**

### Committees

The Board may establish committees to assist in performing its advisory duties.

- A. Committees shall be established by a majority vote of those members attending a regular or special meeting of the Board.
- B. The Board chairperson shall appoint committee members. The committee chairperson shall be selected by its members. The committee chairperson will be responsible for calling committee meetings, requesting needed assistance from DEP, and reporting to the Board, and shall receive necessary administrative and clerical support from DEP.
- C. Each committee shall develop and adopt a statement of purpose or objective of the committee at a meeting of that committee after its creation.
- D. The chairperson of the Board shall appoint a committee to prepare the Annual Report, as mandated by Section 18(g) of the Pennsylvania Surface Mining Conservation and Reclamation Act.
- E. A listing of the committees and their statements of purpose shall be maintained as an appendix to these bylaws. Changes to the appendix shall not constitute a change to the bylaws.

## **ARTICLE VIII**

### Meetings

The Board shall meet on the first Thursday of the months of January and July and the fourth Thursday of the months of April and October, unless changed by a majority of the members. Alternate meeting dates and special meetings shall be called by the chairperson, in consultation with the vice-chairperson. Committee meetings shall be called by committee chairpersons, who shall also notify the full Board.

## **ARTICLE IX**

### Participation by Non-Board Members

- A. Formal Presentation

Any person may ask the Board for time on the formal agenda to present policy, regulatory or legislative concerns for the Board to consider. The request shall be made in writing to the chairperson and include a summary of the presentation. The chairperson shall determine the interest of the Board in the subject and decide if the presentation will be allowed during the formal

agenda. Requests shall be submitted at least one month prior to a Board meeting.

**B. Informal Discussion**

At the discretion of the chairperson, any person present at the meeting shall be afforded the opportunity to speak to the Board or ask questions of Board members.

**ARTICLE X**  
Amendments

The bylaws may be amended, repealed or suspended at any meeting of the Board by a two-thirds vote of the members of the Board, provided that written notice of such amendment, repeal or suspension shall have been sent to each member at least one week prior to said meeting.

**ARTICLE XI**  
Board Representation

The Board shall act as a body in all matters before it and only the chairperson, or his or her designee, the vice-chairperson or the Board's designee shall speak on behalf of the Board.

## Appendix B

### OFFICERS OF THE BOARD FOR THE REPORTING PERIOD July 2006 – June 2007

|  |  |
|--|--|
| <b>Board Chairperson</b>   | David Osikowicz  |
| <b>Board Vice Chairperson</b>                                      | Burt Waite   |
| <b>Annual Report Committee Co-Chairpersons</b>                     | Richard Fox, Susan Germanio (through January 2007), and Stan Geary |
| <b>Policy Committee Chairperson</b>                                | David Mankamyer  |
| <b>Reclamation Committee Chairperson</b>                           | David Strong   |
| <b>Regulation, Legislation and Technical Committee Chairperson</b> | Jack Chamberlin  |

## Appendix C

### BOARD MEMBERSHIP FOR THE REPORTING PERIOD July 2006 – June 2007

| <b>Board Member</b>  | <b>Position</b>                           | <b>Alternate</b>                       |
|----------------------|---|--|
| David Osikowicz      | Bituminous Surface Mine Operator          | George Ellis, Stan Geary               |
| Mark Snyder          | Bituminous Surface Mine Operator          | George Ellis, Stan Geary, Darrel Lewis |
| Jack Chamberlin      | Bituminous Licensed Professional Engineer | George Ellis, Stan Geary               |
| Edward Helfrick, Jr. | Licensed Anthracite Operator              | Duane Feagley                          |
| Sen. Raphael Musto   | General Assembly                          | Richard Fox                            |
| Sen. James Rhoades   | General Assembly                          | Patricia Krommes                       |
| Rep. Samuel Smith    | General Assembly                          | Joseph Deklinski                       |
| Rep. Deberah Kula    | General Assembly                          | Susan Germanio, Joyce Martin           |
| Burt Waite           | Citizens Advisory Council                 | Susan Wilson, Janis Dean               |
| David Strong         | Citizens Advisory Council                 | Susan Wilson, Janis Dean               |
| Walter Heine         | Citizens Advisory Council                 | Susan Wilson, Janis Dean               |
| Bruce Tetkoskie      | Citizens Advisory Council                 | Susan Wilson, Janis Dean               |
| David Mankamyer      | State Conservation Commission             | Bob Hughes                             |

## Appendix D

### MEETING DATES DURING THE REPORTING PERIOD July 2006 – June 2007

| Date             | Location       | Meeting   |
|------------------|----------------|---|
|                  |                |   |
|                  |                |   |
| July 12-13, 2007 | California DMO | Full Board (Annual Field Meeting)               |
|                  |                |   |
|                  |                |   |
| Oct. 26, 2007    | Harrisburg     | Full Board                                      |
|                  |                |   |
| Jan. 18, 2007    | Moshannon DMO  | Reclamation Committee                           |
|                  |                | Regulation, Legislation and Technical Committee |
| Jan. 25, 2007    | Harrisburg     | Full Board                                      |
|                  |                |   |
|                  |                |   |
| Apr. 26, 2007    | Harrisburg     | Full Board                                      |

## Appendix E

### MRAB COMMITTEES FOR THE REPORTING PERIOD July 2006 – June 2007

#### Annual Report Committee

|   |   |
|---|---|
| <p>Mr. Richard Fox (Alternate), Co-Chair<br/>PA State Senate<br/>Rm. 17, E. Wing, Main Capitol Building<br/>Harrisburg, PA 17120-3014<br/>Phone: 717-787-7105<br/>Fax: 717-783-4141</p> | <p>Joseph Deklinski (Alternate)<br/>PA House of Representatives<br/>240 Ryan House Office Building<br/>House Box 202020<br/>Harrisburg, PA 17120-2020<br/>Phone: 717-783-4707<br/>Fax: 717-705-2095</p> |
| <p>Stan Geary (Alternate), Co-Chair<br/>PA Coal Association<br/>212 N. Third Street, Suite 102<br/>Harrisburg, PA 17101<br/>(717) 236-5901<br/>FAX: (717) 231-7610</p>                  | <p>Susan M. Wilson (Alternate)<br/>Citizens Advisory Council<br/>P.O. Box 8459<br/>13<sup>th</sup> FL RCSOB<br/>Harrisburg, PA 17105-8459<br/>Tel: 717-787-4527<br/>Fax: 717-772-5748</p>               |

#### Reclamation Committee

|  |   |
|--|---|
| <p>David L. Strong, <b>Chairman</b><br/>P.O. Box 162<br/>Brockway, PA 15824<br/>Tel: 814-371-6142</p>  | <p>Stan Geary (Alternate)<br/>PA Coal Association<br/>212 N. Third Street, Suite 102<br/>Harrisburg, PA 17101<br/>(717) 236-5901<br/>FAX: (717) 231-7610</p>                              |
| <p>Duane Feagley (Alternate)<br/>PA Anthracite Council<br/>3400 Trindle Road<br/>Camp Hill, PA 17011<br/>Tel: 717-737-9825 (O)<br/>Fax: 717-730-0409</p> | <p>Jack R. Chamberlain<br/>702 Chamberlin Road<br/>Brookville, PA 15825<br/>Tel: 814-849-4181<br/>FAX: 814-849-7166</p>   |
| <p>Robert E. Hughes (Alternate)<br/>EPCAMR<br/>1485 Smith Pond Road<br/>Shavertown, PA 18704</p>   | <p>Susan M. Wilson (Alternate)<br/>Citizens Advisory Council<br/>P.O. Box 8459<br/>13<sup>th</sup> FL RCSOB<br/>Harrisburg, PA 17105-8459<br/>Tel: 717-787-4527<br/>Fax: 717-772-5748</p> |

### Regulation, Legislation and Technical Committee

|  |  |
|--|--|
| <p>Jack R. Chamberlin, <b>Chairman</b><br/>         702 Chamberlin Road<br/>         Brookville, PA 15825<br/>         Tel: 814-849-4181<br/>         Fax: 814-849-7166</p>  | <p>David L. Strong<br/>         P.O. Box 162<br/>         Brockway, PA 15824<br/>         Tel: 814-371-6142</p>  |
| <p>The Honorable Raphael Musto<br/>         Senate of Pennsylvania<br/>         Senate Post Office Box 203014<br/>         Harrisburg, PA 17120-3014<br/>         Tel: 717-787-7105<br/>         Fax: 717-783-4141</p>                 | <p>The Honorable James J. Rhoades<br/>         Senate of Pennsylvania<br/>         Senate Post Office Box 203029<br/>         Harrisburg, PA 17120-3029<br/>         Tel: 717-787-2637<br/>         Fax: 717-783-9149</p>  |
| <p>The Honorable Samuel H. Smith<br/>         Pennsylvania House of Representatives<br/>         House Post Office Box 202020<br/>         Harrisburg, PA 17120-2020<br/>         Tel: 717-787-3845<br/>         Fax: 717-787-6564</p> | <p>The Honorable Deberah Kula<br/>         Pennsylvania House of Representatives<br/>         House Post Office Box 202020<br/>         Harrisburg, PA 17120-2020<br/>         Tel: 717-772-5771<br/>         Fax: 717-787-0861<br/> <i>(Replaced Representative Jim Shaner in January 2007)</i></p> |
| <p>David D. Osikowicz<br/>         Original Fuels, Inc.<br/>         O.O. ox 343<br/>         Punxsutawney, PA 15767<br/>         Tel: 814-938-5171<br/>         Fax: 814-938-5008</p>   | <p>Susan M. Wilson (Alternate)<br/>         Citizens Advisory Council<br/>         P.O. Box 8459<br/>         13<sup>th</sup> FL RCSOB<br/>         Harrisburg, PA 17105-8459<br/>         Tel: 717-787-4527<br/>         Fax: 717-772-5748</p>  |

### Policy Committee

|   |  |
|---|--|
| <p>David Mankamyler, <b>Chairman</b><br/>         152 Aviator Lane<br/>         Friedens, PA 15541<br/>         Tel: 814-445-8618<br/>         Fax: 814-444-9666</p>  | <p>Mark A. Snyder<br/>         State Industries, Inc.<br/>         P.O. Box 1022<br/>         Kittanning, PA 16201<br/>         Tel: 724-548-8101<br/>         Fax: 724-545-2989</p> |
| <p>Walter N. Heine, P.E.<br/>         Walter N. Heine Associates, Inc.<br/>         67 Graham Road<br/>         Newville, PA 17241<br/>         Tel: 717-776-5696</p> |  |