

Annual Report July 2008 – June 2009



Commonwealth of Pennsylvania

Department of Environmental Protection



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 2009.

A Message from MRAB Chairman David Osikowicz

January 2010

On behalf of the Mining and Reclamation Advisory Board (MRAB), I am pleased to present for your review the Board's annual report, documenting the Board's activities from July 2008 through June 2009. The Board continues to address environmental problems related to past coal mining practices and continually assists the department in ensuring that current industry conducts itself in an environmentally responsible manner.

The Board held four meetings during the reporting period, as outlined in the by-laws. Meeting dates were July 24, 2008, October 23, 2008, January 21, 2009 and April 23, 2009.

The July 24, 2008 meeting was held at the Pottsville District Mining Office in connection with the annual field trip. The Board toured several of the Department's reclamation project sites and a Schuylkill Headwaters Association passive acid mine drainage treatment system. A tour of an active strip mining site as well as a hybrid biosolids demonstration project was also part of the trip.

DEP provided the Board with regular updates on the status of Bond Rate Guidelines, BAMR Projects and the ABS Legacy Sites Trust Account, as well as updates on the beneficial use of coal ash and the Indiana Bat Conservation efforts.

The Board provided advice to the department with regard to the reauthorized AML Title IV monies spending and program administration necessitated by changes in OSM's Title IV Abandoned Mine Regulations and offers its continued assistance regarding these expenditures. The Board also supported efforts of the Eastern PA Coalition for Abandoned Mine Reclamation 3D mapping project and provided technical input into the beneficial use of coal ash and advice regarding additional regulations for remining incentives.

The ongoing contributions, sharing of knowledge, commitment and support of all Board members, alternates, and of the DEP staff is fully appreciated. The Board remains highly committed to advising and working with the department in carrying out its mission, evaluating the rights and responsibilities of industry, and making responsible, calculated recommendations for the citizens of the Commonwealth.

Sincerely,

A handwritten signature in black ink, appearing to read "David Osikowicz", with a stylized flourish at the end.

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, Chairperson
Joseph A. Deklinski
Susan M. 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:

Mark A. Snyder, Chairperson
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, Chairperson
Jack R. Chamberlin
Bernie Hoffnar
Duane Feagley
Robert E. Hughes
Susan M. Wilson
Bruce Golden

- **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 R. Chamberlin, Chairperson
The Honorable Raphael Musto
The Honorable Jeffrey P. Pyle
The Honorable Donald C. White
David D. Osikowicz
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**.

2008-2009 MAIN AGENDA TOPICS (Presented Alphabetically)

ABS Legacy Trust Account

At the July 2008 meeting, the Board voted to send a letter to all Pennsylvania legislators outlining the need for the ABS Legacy Fund. A letter was sent addressing the ABS funding shortfall to select legislators. (See 2007-2008 Annual Report for history of this topic.)

As of January 2009, there was approximately \$3.9 million in the Reclamation Fee Account. Therefore, at the April meeting, there was discussion regarding the issue of excess funds and whether there was a need to transfer monies from the Reclamation Fee O&M Trust Account into the ABS Legacy Sites Trust Account.

In addition, preliminary analysis by the Department indicated the reclamation fee calculation for 2010 could be \$0. DEP also provided information on improved tracking of trust funds and accomplishments relating to the ABS Bond Forfeiture Discharges.

AML / Title IV Roundtables

Secretary McGinty requested the Board's advice on changes to Pennsylvania's Comprehensive Plan for Abandoned Mine Reclamation necessitated by changes in OSM's Title IV Abandoned Mine Regulations. The Board accepted the charge and began adding this issue as a regular agenda item.

A meeting was held by the Reclamation Committee in May 2009 to discuss the Title IV Budget.

On December 15, 2008 OSM announced that Pennsylvania's 2009 AML Grant was \$29,975,292 for an increase of \$2 million over the 2008 grant.

Bond Rate Guidelines (BRG)

Bruce Carl, DEP, attended the July and October 2008 MRAB meetings to provide the Board with the Department's updated projection of the 2009 bond rates based on the average costs of recent reclamation projects. At the January 2009 meeting, Mr. Carl presented the proposed Land Reclamation Bond Rate Guidelines for 2009 indicating that revegetation costs continue to climb with the rate up to \$1600 per acre from last year's \$1530 per acre. Most reclamation tasks rates remained the same compared to 2008 rates.

The MRAB members approved the 2009 Land Reclamation Bond Rate Guidelines which were published in the February 14, 2009 PA Bulletin and became effective April 1, 2009.

Bureau of Abandoned Mines Reclamation (BAMR) Projects/Status Report

Staff from the Bureau of Abandoned Mine Reclamation attends meetings to provide brief reclamation project updates. As of March 20, 2008, completions were as follows: 85 projects with a total of 974 acres of abandoned mine reclaimed at a cost of \$38,458,438. 42 active projects will be completed in the near future reclaiming 1828 acres costing \$51,956,588. 184 projects are in the design stage projected to reclaim 4623 acres.

The Department has developed four of the five reclamation and re-mining incentive programs authorized by the 1992 amendment to the Surface Mine Conservation and Reclamation Act (SMCRA). In the time the four programs have been available and as of April 2009, coal mine operators have used them to aid in completing reclamation of 5,045 acres of abandoned mine land equating to an approximate reclamation value of \$27,301,271. Department costs to operate the programs are minimal and the Department will continue to identify and develop incentives to encourage and expand reclamation and re-mining operations.

Field Trip

The MRAB holds an annual field trip. The 2008 field trip was held on July 25, 2008. The Board toured several of the Department's reclamation project sites and a Schuylkill Headwaters Association passive acid mine drainage treatment system. A tour of an active strip mining site and a hybrid biosolids demonstration project was also part of the trip.

Indiana Bat

The Department kept the Board apprised of the status of conservation efforts on behalf of the Indiana Bat which has been listed as an endangered species since 1973.

At the request of the Interstate Mining Compact Commission (IMCC), a federal workgroup was expanded to include States to develop draft Range-Wide Guidelines. In addition, there exists a draft recovery plan. The Department indicated that the goal is to eliminate inconsistencies across the difference agencies involved and to provide clarity to the guidelines that everyone is expected to adhere to.

Regulatory Updates

Mine Opening Blasting

- In the August 9, 2008 PA Bulletin, the Mine Opening Blasting regulations became effective amending Chapters 87, 88, 89 and 210.

Surface Mine Safety

- In the August 9, 2008 PA Bulletin, the Surface Mine Safety regulations became effective amending Chapter 209a.

Reclamation Fee and Bond Forfeiture

- On July 8, 2008, OSM sent a revised Part 732 Notice to the Department. On the same day, OSM published in the Federal Register, a revision updating the program condition that had been reinstated by the Court [§938.16(h)]. As a result, PA was required to demonstrate by September 8, 2008 that it had sufficient revenues in the Surface Mining Conservation and Reclamation Fund to address outstanding reclamation at forfeited sites or amend its program to provide the funding.
- On August 1, 2008, BMR submitted a package to OSM to address the required program amendment relating to the defunct Alternate Bonding System (ABS). An integral part of the program amendment was a regulatory package that allows for the adjustment of the reclamation fee and establishes money management accounts used for the operation and maintenance of treatment facilities for ABS bond forfeiture discharges. Revisions to the reclamation fee were published as final rulemaking in the August 30, 2009 PA Bulletin.

Technical Guidance Documents (TGD)

- Several events have raised the level of public awareness and concern regarding storage, disposal and beneficial use of coal ash. The National Academy of Science's 2006 report made several recommendations which the Department has proposed to adopt in its proposed amended policies noted below. The three coal ash guidance documents pertaining to the beneficial use of coal ash were consolidated into two guidance documents and published in the September 20, 2009 PA Bulletin for a public comment period of 60 days.
 - 563-2112-224, "Certification Guidelines for the Chemical and Physical Properties of Coal Ash Beneficially Used at Mines
 - 563-2112-225, "Mine Site Approval for the Beneficial Use of Coal Ash."

Treatment Trust Fund Status Report

The MRAB received regular updates from the Bureau of Mining and Reclamation on the status of the Treatment Trust Fund throughout the time frame covered by this Annual Report. The Department continues to work to secure trusts and bonds to guarantee that sites with post-mining discharges are capable of treatment in perpetuity. The Department also continues to make progress with respect to the perpetual treatment of these sites and the number of trusts that are fully funded. As of the July 2008 MRAB meeting, the bond total went from approximately \$111 million to \$117 million and the fully-funded trust total increased approximately \$6 million. The Department anticipates there will be a total of 128 agreements, with 75 agreements already secured.

PRESENTATIONS

Anthracite Mine Pool Mapping Project

Bob Hughes and Michael A. Hewitt, both from the Eastern Pennsylvania Coalition of Abandoned Mine Reclamation (EPCAMR) provided the Board with a presentation on the Mine Pool Mapping Initiative in the Anthracite region—a collaborative effort with the District Mining Offices. The Mine Pool Mapping Initiative is a software package which brings together various maps of a target area and provides a three-dimensional look of underground mine pools. Several universities are assisting in the efforts to collect and digitize various mine map folios and determining potential markets and users. These include Bloomsburg, Lockhaven Mansfield and Penn State Universities.

Reclaiming Bond Forfeiture Sites

Mike Smith, District Mining Manager for the Moshannon District Office presented a report on reclaiming Primacy Bond Forfeiture sites. The original goal was to complete 15 sites within three years. That goal was exceeded when 49 sites were reclaimed. Of the 49 total sites, 26 sites were reclaimed through surety reclamation agreements, 9 were completed by mine owners willing to assume the responsibility and 7 were completed with conventional contractors, leaving 7 projects to be completed.

An additional presentation was made by Ron Horansky of the Greensburg District Mining Office. This summarized the Greensburg DMO's reclamation activities covering several sites that have been, or are in the process of being reclaimed. A total of 9 sites with 16 discharges are in need of treatment. Six of those sites are under contract to be reclaimed.

Bark Camp Reclamation

The Bark Camp Reclamation was a successful, economically feasible demonstration project illustrating the use of dredge material from New York and New Jersey combined with lime and ash to reclaim strip mine sites in Clearfield County. The Bark Camp site was owned by the PA DCNR Bureau of Forestry. Approximately 10,000 linear feet of highwall or 20 acres was reclaimed using this material.

According to the New York and New Jersey Clean Ocean & Shore Trust 2007 report, final cost was approximately \$45/cubic yard. Because PA DEP paid only for sampling and inspection, it was a cost effective means of reclamation.

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 2008 – June 2009

Board Chairperson	David Osikowicz
Board Vice Chairperson	Dave Strong
Annual Report Committee Chairperson	Richard Fox
Policy Committee Chairperson	Mark Snyder
Reclamation Committee Chairperson	David Strong
Regulation, Legislation and Technical Committee Chairperson	Jack Chamberlin

Appendix C

BOARD MEMBERSHIP FOR THE REPORTING PERIOD July 2008 – June 2009

Board Member	Position	Alternate
David Osikowicz	Bituminous Surface Mine Operator	George Ellis & Susan Germanio
Mark Snyder	Bituminous Surface Mine Operator	George Ellis, Susan Germanio, Darrel Lewis
Jack Chamberlin	Licensed Professional Engineer	George Ellis and Susan Germanio
Edward Helfrick, Jr.	Anthracite Surface Mine Operator	Duane Feagley
Sen. Raphael Musto	General Assembly	Richard Fox
Sen. Donald White	General Assembly	Allison Dutrey
Rep. Jeffrey Pyle	General Assembly	Joe Deklinski
Rep. Deberah Kula	General Assembly	Joyce Martin
Burt Waite	Citizens Advisory Council	Susan Wilson, Janis Dean. & Patricia Davenport
David Strong	Citizens Advisory Council	Susan Wilson, Janis Dean, & Patricia Davenport
Walter Heine	Citizens Advisory Council	Susan Wilson, Janis Dean & Patricia Davenport
Bernie Hoffnar	Citizens Advisory Council	Susan Wilson, Janis Dean & Patricia Davenport
Bruce Golden	State Conservation Commission	Bob Hughes

Appendix D

MEETING DATES DURING THE REPORTING PERIOD July 2008 – June 2009

Date	Location	Meeting
July 24, 2008	Pottsville DMO	Full Board (Annual Field Trip Meeting)
October 23, 2008	Harrisburg, PA	Full Board
January 21, 2009	Harrisburg, PA	Full Board
April 23, 2009	Harrisburg, PA	Full Board
May 7, 2009	Cambria DMO	Reclamation Committee Meeting

Appendix E

MRAB COMMITTEES FOR THE REPORTING PERIOD July 2008 – June 2009

Annual Report Committee

<p>Mr. Richard Fox (Alternate), Chairperson PA State Senate Rm. 17, E. Wing, Main Capitol Building Harrisburg, PA 17120-3014 Phone: 717-787-7105 Fax: 717-783-4141</p>	<p>Joseph A. Deklinski (Alternate) PA House of Representatives 240 Ryan House Office Building House Box 202020 Harrisburg, PA 17120-2020 Phone: 717-783-4707 Fax: 717-705-2095</p>
<p>Susan M. Wilson (Alternate) Citizens Advisory Council P.O. Box 8459 13th FL RCSOB Harrisburg, PA 17105-8459 Tel: 717-787-4527 Fax: 717-772-5748</p>	

Reclamation Committee

<p>David L. Strong, Chairperson P.O. Box 162 Brockway, PA 15824 Tel: 814-371-6142</p>	<p>Bernie Hoffnar 3238 Hickory Hollow Six Mile Run, PA 16679</p>
<p>Duane Feagley (Alternate) PA Anthracite Council PO Box 138 Pottsville, PA 17901 Tel: 717-737-9825</p>	<p>Jack R. Chamberlain 702 Chamberlin Road Brookville, PA 15825 Tel: 814-849-4181 FAX: 814-849-7166</p>
<p>Robert E. Hughes (Alternate) EPCAMR 485 Smith Pond Road Shavertown, PA 18704 Tel: 570-674-3411 Fax: 570-674-7989</p>	<p>Susan M. Wilson (Alternate) Citizens Advisory Council P.O. Box 8459 13th FL RCSOB Harrisburg, PA 17105-8459 Tel: 717-787-4527</p>
<p>Bruce Golden WPCAMR Green Forge Building 226 Donohoe Road, Suite 110 Greensburg, PA 15601</p>	

Regulation, Legislation and Technical Committee

<p>Jack R. Chamberlin, Chairperson 702 Chamberlin Road Brookville, PA 15825 Tel: 814-849-4181 Fax: 814-849-7166</p>	<p>David L. Strong P.O. Box 162 Brockway, PA 15824 Tel: 814-371-6142</p>
<p>The Honorable Raphael Musto Senate of Pennsylvania Senate Post Office Box 203014 Harrisburg, PA 17120-3014 Tel: 717-787-7105 Fax: 717-783-4141</p>	<p>Susan M. Wilson (Alternate) Citizens Advisory Council P.O. Box 8459 13th FL RCSOB Harrisburg, PA 17105-8459 Tel: 717-787-4527</p>
<p>David D. Osikowicz Original Fuels, Inc. P.O. ox 343 Punxsutawney, PA 15767 Tel: 814-938-5171 Fax: 814-938-5008</p>	<p>The Honorable Jeffrey P. Pyle Pennsylvania House of Representatives House Post Office Box 202060 Harrisburg, PA 17120-2060 Tel: 717-783-5327 Fax: 717-260-6511</p>

The Honorable Donald White
Main Capitol Building
Room 281
Harrisburg, PA 17120-3041
Tel: 717-787-8724

Policy Committee

Mark A. Snyder, Chairperson State Industries, Inc. P.O. Box 1022 Kittanning, PA 16201 Tel: 724-548-8101 Fax: 724-545-2989	Walter N. Heine, P.E. Walter N. Heine Associates, Inc. 67 Graham Road Newville, PA 17241 Tel: 717-776-5696
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