

D R A F T

MINING AND RECLAMATION ADVISORY BOARD (BOARD)

**Thursday, October 22, 2009
Knox District Mining Office
White Memorial Building
Knox, PA**

Voting Members/Alternates in attendance: Jack Chamberlin (Member), Bruce Golden (Member), Darrell Lewis (Alternate), David Strong (Member), David Osikowicz (Member), Curtis Kratz (Alternate), Ed Helfrick (Member)

Others in attendance: William Allen (DEP), Shuvonna Ballard (DEP), Robert Burns (Alternate), Bruce Carl (DEP), James Charowsky (DEP), Richard Morrison (DEP), George Rieger (OSM), Michael Terretti (DEP), George Ellis (Alternate), Duane Feagley (Alternate), Josie Gaskey (Alternate), Ronald Furlan (DEP), Lori Odenthal (DEP), Geoffrey Lincoln (DEP), Scott Van de Mark (PA Environmental Council), Mark Odenthal (DEP), Joe Ferrara (DEP), Javed Mirza (DEP), Sam Faith (DEP), Joe Pitts (Sen. Don White's Office)

Meeting Called to Order

Mr. Osikowicz chaired the meeting, and called the meeting to order at approximately 12:00 PM. He welcomed everyone and asked that they introduce themselves.

Adoption of Minutes

Mr. Osikowicz called for a motion to approve the Board's April 23, 2009, meeting minutes. The motion was made then seconded and with the Board's unanimous vote, the minutes were adopted. It was pointed out that the scheduled July 23 meeting was cancelled because of the state budget impasse.

Correspondence

Mr. Osikowicz went through a list of various correspondences. One letter was from Jeff Pyle naming Joe Deklinski as his alternate. Ed Helfrick named Bob Burns as his alternate. Jack Chamberlin named Josie Gaskey as an alternate. The Citizens' Advisory Council (CAC) appointed Curtis Kratz as an alternate for their members.

The CAC also sent a letter to OSM in support of the Annual Emergency Program.

Committee Reports

Policy

The Committee had nothing to report.

Reclamation

Scott Van de Mark with the Pennsylvania Environmental Council spoke briefly about experiments currently being conducted with Penn State University which involve reclaiming surface mine sites by growing warm season grasses using poultry manure and paper mill sludge.

One site in Schuylkill County is in its third year and is expected to provide a yield of three to four tons per acre per year. These warm season grasses would be a bio-mass crop that could be used at ethanol plants and other applications that could generate income in the future.

Regulation, Legislation and Technical

Mr. Strong reported that that the committee had completed a draft letter to the Office of Surface Mining and Reclamation (OSMRE) objecting to the potential reclassification of coal ash as hazardous waste. The letter provided information about how coal ash is used beneficially in Pennsylvania and the negative effects reclassification would have on reclamation.

Mr. Strong also stated that the committee wanted to send a “bulleted” report to several legislatures. As there was not a quorum present at the time so the motion was tabled until later in the meeting when the motion was made and seconded.

Reclaiming Primacy Bond Forfeiture Sites

Joe Ferrara and Mark Odenthal spoke about several projects where acid mine drainage discharges are being treated. Nine projects are completed with five are in various stages of completion. Five sites were added and only require minor reclamation work. One site was reclaimed by the landowner. Five sites were reclaimed through consent orders. There are 12 treatment systems in place. BMR is currently doing O&M work on nine sites and it is estimated that reimbursements in the amount of \$28,000 will be made for work they have performed.

Fieldtrip Briefing

Joe Ferrara and Mark Odenthal went over logistics for the field trip to be conducted the next day. The field trip was to reclamation projects in the area to observe the treatment of acid mine discharges.

Proposed TDS Standards Update

Ronald Furlan gave an update on the standards being devised to handle total dissolved solids (TDS). This is a result of issues faced approximately a year ago involving the Monongahela water quality. Testing is done every two months. The standard is currently a “point of use” standard and testing is done at low flow periods. This gives a conservative estimate to offset any fluctuation in flow or load. They found that in 17 intakes, TDS limits were exceeded. These new standards would not affect current discharges and would only be applied to new permits unless the watershed is deemed “impaired” by the EPA.

Mr. Furlan made it clear that if EPA issues more stringent standards for discharges, the state would have to do likewise. He stated that the cost of treatment, which was of concern, would have to be applied to someone and it was a matter of trying to determine whether it should be assessed to the industries or the public in the form of higher bills for the treatment of drinking water. He also reiterated that the environment also had to be protected in these standards. He gave an example of the possible cost of treatment to a permit.

There was significant concern about the limiting of the sulfates allowed in discharges and the effects it would have on the mining industry.

Proposed Regulatory Rulemaking Package

Bill Allen presented the Bureau’s draft proposed rulemaking package. He highlighted the changes involved in the regulations. These involved changes to remaining financial guarantees, program deficiencies, and mining program fees.

Financial guarantee changes reflect that the mining program has gone to a conventional bonding system. The language will also be clarified to apply to the entire permit. Letters of Credit will no longer be accepted because of past problems but surety bonds will continue to be accepted.

There are a few state regulations that could be updated because they do not currently meet the federal government’s standards. An example is in federal regulations a permit is required to explore on Areas Unsuited for Mining (UFM) while only a waiver is required in Pennsylvania to explore on UFM.

A proposal was made to base the permit fees on the costs incurred in the review process. The hope is to move closer to a self funded program to avoid further and more severe personnel cuts that would greatly extend the length of time before a permit can be issued. Representatives from PCA and the PA Legislature voiced opposition to this proposal and both made know their intent to hold up the rulemaking package if the permit fees changes were included without extensive input from the coal industry.

Mr. Lewis made a motion to separate the permitting fee language out of the regulatory package, so that the Board could study them further. The motion was seconded, and past with one abstentions.

A motion was made that the remaining regulatory package be approved by the Board with the understanding that it is not an endorsement but a way to move the package forward in the regulatory process with the understanding that there will be substantial comments made on the package.

ABS Progress Report

Bill Allen also presented an update on the reclamation fees. The balance as of June 30 in the Reclamation Fee O&M Trust Account is at approximately \$4 Million which did not include interest or recent civil penalties. \$380,000 was collected in fees in the past fiscal year. The year's costs were approximately \$5,600 and that was mostly for personnel. There were no contracts or grants for the last fiscal year and projects a 1% increase for the coming year. Projected expenditures are around \$762,000 for the coming fiscal year. The Legacy Trust Fund must maintain a minimum of \$3 million in the reclamation fee account.

Mr. Strong made a motion to transfer \$300,000 from the Reclamation Fee Fund to the Legacy Trust Fund. The motion was seconded and approved.

Beneficial Coal Ash Update

Bill Allen informed the Board that there will be several hearings about the proposed rulemaking package pertaining to coal ash for beneficial use. Mr. Strong was concerned about the economic impact the new certification standards had on the coal industry. It was stated that there is not a reliable way to quantify that at this time.

Proposed 2010 Bond Rate Guidelines

Bruce Carl gave a quick overview of bond rates. There are nine reclamation contracts in place currently. There are about four million cubic yards that have been contracted.

The Board was informed of a proposal to change the methodology for calculating conventional bonding. A workgroup has been established to look into this matter.

Indiana Bat Update

Geoff Lincoln gave an overview of the issues surrounding the Indiana Bat. Range-wide guidelines were put out by the Office of Surface Mining, the IMCC, and the U.S. Fish and Wildlife Service.

2008 – 2009 MRAB Annual Report

David Osikowicz requested the Annual Report Committee start the process and Josie Gaskey volunteered to work the report.

New Business

David Osikowicz stated a need to set up a meeting for a formation of a workgroup to study permit fees. Mr. Allen requested that the meetings be held sooner rather than later.

Mr. Strong requested that a letter be drafted to support Joe Pizarchik nomination to OSMRE.

Adjourn

With no further questions or comments, Mr. Osikowicz called for the meeting to be adjourned. The motion was seconded and the meeting was concluded at approximately 5:45 PM.