

MINING AND RECLAMATION ADVISORY BOARD (BOARD)

**Thursday, July 14, 2011
Elk County Visitors' Center
Benzette, PA
10:00 AM**

Voting Members/Alternates: Jack Chamberlin (Member), Duane Feagley (Alternate), Darrel Lewis (Alternate), David Osikowicz (Member), David Strong (Member)

Other Attendees: Bill Allen (DEP), Tom Callaghan (DEP), Bruce Carl (DEP), Jim Charowsky (DEP), Rawley Cogan (Keystone Elk Country Alliance), Eric Chronister (DEP), George Ellis (Alternate), Josie Gaskey (Alternate), Shawn Wiley (DEP)

Meeting Called to Order

David Osikowicz served as chair for this meeting and called the meeting to order at approximately 10:00 AM. He welcomed everyone and asked that they introduce themselves. It is noted that there was no quorum for this meeting.

Adoption of Minutes

Passage of the minutes for the April meeting was postponed until the next meeting

Correspondence

It was brought to the Board's attention that Liberty Hydro, Inc. requested a demonstration to the Board showing their work in acid mine drainage (AMD) abatement. Concern was raised that it would be more akin to a sales pitch as opposed to an informative presentation. The Board requested that more information be provided by the company so that the Board could make an informed decision. Mr. Allen suggested that if there was sufficient interest in current procedures, that an independent source of information or field trip be arranged.

Mr. Charowsky also presented a letter from Kurtis Cratz resigning from both the Citizens' Advisory Committee and the MRAB.

Committee Reports

Policy

No Report

Reclamation

No Report

Regulation, Legislation and Technical

Mr. Strong voiced disappointment that his comments on maintaining AMD treatment plants did not make it into the April meeting's minutes. He reiterated that he is still very concerned about where the money will come from to sustain these AMD treatment systems. He requested that the Board draft a letter in support of finding funding for these operations. He also had plans to meet with John Hines to discuss funding for AMD systems and fracking issues.

Mr. Strong reminded the Board that it was past practice that the Department was not supposed to build new AMD treatment operations without funding for operation and maintenance being approved beforehand and not borrowing from other programs or federal funds. Mr. Strong voiced the opinion that the Board should work to reinstate funds for these operations as a regular part of the Commonwealth's budget.

Mr. Strong gave an overview of the Blue Valley operation which funds itself by selling AMD water to the oil and gas industries for frack water. The Toby Creek watershed is in the black for the first time in 45 years due to this operation. Winter Global is also working on a treatment plan and plans to market it to the oil and gas industry. He suggested that someone study the safety of storage of AMD water and that the Board oppose AMD water being treated as waste water.

Mr. Osikowicz told Mr. Strong to compose a letter that can be passed around to the other Board members for an email vote.

Mr. Strong resigned from the Reclamation Committee.

Elk County Visitor Center Briefing

Mr. Cogan of the Keystone Elk Country Alliance (KECA) gave a brief history of the Elk County Visitor Center. The KECA is a nonprofit organization that works in conjunction with DCNR to run and maintain the center and surrounding grounds. Governor Rendell wished to promote eco-tourism and elk watching in Elk County so six million dollars was included in a state budget as a line item to establish the center. The center attracts up to 5,200 visitors a day and an estimated 100,000 visitors annually. This has been a considerable boost to the local economy. KECA's main purpose is conservation education. It provides a structured program designed by the Department of Education.

EPA & NPDES Permits Update

BMR sent 104 permits to EPA. EPA provided comments/objections on 42 permits. 17 permits with comments have been resolved/issued. 11 permits with comments are awaiting issuance. 16 permits are pending as to resolve comments from EPA. 23 permits without comments were issued. 28 permits could be issued but have not due to some other issues such as bonding, etc. 11 permits are still within the 30 day period subject to comment by EPA.

A recent comment from EPA observed that an operation would consider discharged water as storm water as opposed to discharged waste water. EPA believes that the water in question

should be treated as waste water. Mr. Allen believes this is related to water that comes in contact with the coal or overburden which he believes is still considered stormwater. He has prepared a regulatory analysis to present to EPA on this matter.

Mr. Allen presented a “to do” list. This included outreach with the industry and consultants. There has been work on revising the application form to reflect the EPA’s comment and incorporate effluent requirements. NPDES permit documents also need to be revised. There are also plans to add more trained permit reviewers.

Rulemaking Packages Update

The coal fee package was published in December. It will need to be republished due to a hold up in the process. The package is awaiting approval from the governor’s office. The governor’s office has requested a business plan analysis on the package. In the analysis, the mining program emphasized interaction with the Board and explaining how the regulation came into being.

OSM Deficiency Package and Remining Financial Guarantee package was finalized on June 15. Permitting requirements for UFM’s will need forms and Technical Guidance documents revised/created.

Mr. Ellis asked about exploration on UFM permits. Mr. Allen explained that BMR is looking to institute permits for “exploration only” on UFM areas.

ABS Legacy Trust Account Update

There have been no additional trust agreements since the April briefing. The bond amount also remains unchanged. A little less than \$300,000 in civil penalties was collected. Interest earned was negative due to an overpayment in 2009 which is still being refunded. The program currently underwrites about 24 million dollars in conversion assistance. Ten percent of the 24 million dollars goes to underwrite conversion assistance. The ten to one formula needs to be reassessed based on today’s values. The agreements in place are also longer lasting than the program anticipated.

Growing Greener had been involved through SMCRA grants for ABS sites. These sites would be financed completely through ABS funds.

Expenses from the O & M Reclamation Fee Account were a little over 100,000 dollars. There will be no Reclamation Fee for 2012. Due to rising costs however, the reclamation fee will eventually be reinstated.

Mr. Ellis asked if further monies would be diverted to the ABS accounts. Mr. Allen asserted that the program would be true to the decisions made by the Board.

Mr. Allen’s report should be complete and ready for review for the October meeting.

Bond Rate Guideline Update

Mr. Carl presented his quarterly spreadsheet on bond rate guidelines. BMR currently had 12 projects for grading at an average rate out to 83 cents per cubic yard. 1.75 million cubic yards of material was graded. Lowest cost per cubic yard was 55 cents and the highest was 92 cents. The three year yardage results ranged from 51 to 86 cents for the short push. The average for the long haul was 88 cents to \$1.02. These averaged out to 92 cents for long haul and 84 cents for the short push.

The area of revegetation was 138 acres which is up from last year. Reseeding and vegetation costs will be approximately the same as last year's.

Electronic Licensing Update

Mr. Carl detailed progress made on eLicensing project. He has made a business plan to justify credit card transaction fees to the comptroller for review. He anticipates having the program up and running before the end of the year.

2010/2011 MRAB Annual Report

Josie Gaskey agreed to work on the report once again.

Open Time

The Board members voiced praise for the Elk County Visitor Center and KECA.

Adjourn

With no further questions or comments, Mr. Osikowicz called for the meeting to be adjourned.