

## **Reclamation Fee Fiscal Year Report 2022**

The Department of Environmental Protection (DEP) has prepared this fiscal year report in accordance with 25 Pa. Code § 86.17(e) regarding the revenue and expenditures of the Reclamation Fee O & M Trust Account. This report includes DEP's calculation of the required amount of the per acre reclamation fee on applications to conduct coal surface mining activities (excluding surface effects of underground mining) on new acreage, to be used by DEP to pay the construction costs and operation and maintenance costs associated with treating postmining polluttional discharges at ABS Legacy Sites (defined at 25 Pa. Code § 86.1). This report also includes the information necessary for determining the need to supplement funding of the Reclamation Fee O & M Trust Account established under 25 Pa. Code § 86.17(e)(1) to ensure that there are sufficient revenues to maintain a balance in this account of at least \$3,000,000, as required by 25 Pa. Code § 86.17(e)(3).

Consistent with 25 Pa. Code § 86.17(e)(4), DEP considered the following factors in this analysis to determine the amount of the Reclamation Fee:

- Current Balance in the Reclamation Fee O & M Trust Account
- Previous Year Revenue
  - Reclamation Fee
  - Interest
  - Civil Penalties
  - Other Revenue Sources
- Previous Year O & M Costs
- Projected Number of Acres Subject to the Reclamation Fee
- Projected Revenue
  - Reclamation Fee
  - Interest
  - Civil Penalties
  - Other Revenue Sources
- Projected Expenditures

### **CURRENT BALANCE**

The balance in the Reclamation Fee O & M Trust Account as of June 30, 2022, was \$3,697,687.54. This balance does not include the civil penalties (\$178,493.00) DEP has collected in fiscal year 2021-2022 as well as interest from the Land Reclamation Financial Guarantee (LRFG) Account (\$23,332.42), both of which were transferred into the account after the draft reclamation fee report was published.

**PREVIOUS YEAR REVENUE**

**Reclamation Fee**

The 2021 Final Reclamation Fee Fiscal Year Report concluded that a Reclamation Fee for FY 2021 to 2022 was necessary and was set at \$100 per acre. The revenue collected from the Reclamation Fee from July 2021 through June 2022 was \$68,241.00 and a month to month breakdown is listed below:

| <b>Month</b> | <b>Reclamation Fee</b> |
|--------------|------------------------|
| Jul-21       | \$2,580.00             |
| Aug-21       | \$240.00               |
| Sep-21       | \$0.00                 |
| Oct-21       | \$3,141.00             |
| Nov-21       | \$27,690.00            |
| Dec-21       | \$6,140.00             |
| Jan-22       | \$670.00               |
| Feb-22       | \$1,920.00             |
| Mar-22       | \$14,750.00            |
| Apr-22       | \$1,120.00             |
| May-22       | \$4,660.00             |
| Jun-22       | \$5,330.00             |

**Interest**

DEP credited interest on the funds in the Reclamation Fee O & M Trust Account to the account in the amount of \$5,185.75 from July 2021 through June 2022.

## Civil Penalties

DEP transfers civil penalties into the Reclamation Fee O & M Trust Account each year. A portion (5%) of all civil penalties collected by DEP are transferred to the Environmental Education Fund as required by statute. The total revenue from civil penalties DEP collected between July 2021 through June 2022 is shown in Table 1.

| <b>TABLE 1</b> |                             |
|----------------|-----------------------------|
| <b>Month</b>   | <b>Coal Civil Penalties</b> |
| Jul-21         | \$34,147.50                 |
| Aug-21         | \$8,780.00                  |
| Sep-21         | \$20,240.00                 |
| Oct-21         | \$3,600.00                  |
| Nov-21         | \$6,585.00                  |
| Dec-21         | \$52,181.75                 |
| Jan-22         | \$11,330.00                 |
| Feb-22         | \$31,000.00                 |
| Mar-22         | \$8,828.75                  |
| Apr-22         | \$2,600.00                  |
| May-22         | \$0.00                      |
| Jun-22         | \$8,200.00                  |
| <b>Total</b>   | <b>\$187,493.00</b>         |

The amount of civil penalty dollars eligible for transfer to the Reclamation Fee O & M Trust Account is \$178,118.35 or 95% of the collected civil penalties. The remaining 5% is required to be transferred to the Environmental Education Fund. This money was transferred following publication of the draft reclamation fee report.

## Other Revenue Sources

Under Section 19.2 of the Surface Mining Conservation and Reclamation Act (SMCRA), as amended in 2012 (52 P.S. § 1396.19b), DEP may transfer the interest on the funds held in the LRFG Account into the Reclamation Fee O & M Trust Account. \$23,332.42 has accrued in the LRFG account during fiscal year 2021-2022. DEP transferred these funds following publication of the draft reclamation fee report.

Section 19.2 of SMCRA also authorizes DEP to transfer premium payments for Land Reclamation Financial Guarantees to the Reclamation Fee O & M Trust Account. In July 2021, the Department received the results of an actuarial study of the LRFG account which provides a formula for evaluating when transfers into the Reclamation Fee O & M Account would be appropriate. DEP continues to engage with the Mining & Reclamation Advisory Board to discuss the results of this study and may ultimately decide to transfer money into this account.

## PREVIOUS YEAR O & M COSTS

DEP incurred O & M costs in five categories: personnel, lab, grants, contracts, and materials resulting in expenditures of \$550,361.83 in 2021-2022.

### **Personnel Costs**

DEP expended \$36,057.67 from the Reclamation Fee O & M Trust Account for personnel from July 2021 through June 2022 to monitor several ABS Primacy bond forfeiture sites.

### **Lab Costs**

The total cost to the Reclamation Fee O & M Trust Account for samples collected and analyzed at the DEP lab for the ABS Primacy bond forfeiture sites from July 2021 through June 2022 is \$136.80.

### **Grants**

DEP awarded grants in the amount of \$251,735.61 from July 2021 through June 2022. For further information, please refer to the [2020 Final Reclamation Fee Fiscal Year Report](#).

### **Contracts**

Contract costs for operation and maintenance of the existing ABS treatment facilities for July 2021 through June 2022 totaled \$247,629.53. In addition, DEP made a direct payment for electricity in the amount of \$4,403.87. For further information, please refer to the [2020 Final Reclamation Fee Fiscal Year Report](#).

### **Materials**

DEP purchased hydrated lime for the operation and maintenance of the Avery Pine Glen AMD Treatment System located in Burnside Twp., Clearfield County as required under the Bond Forfeiture ABS Mining Program for July 2021 through June 2022 in the amount of \$10,398.35.

**PROJECTED NUMBER OF ACRES SUBJECT TO THE RECLAMATION FEE**

Table 2 lists the approximate number of acres permitted each year that would have been subject to the reclamation fee. These values are based upon “acres authorized” as tracked in the eFACTS database. It is possible some of these numbers were revised after the data had been pulled from the database. The downward trend in the number of acres is noteworthy. In 2016, when a reclamation fee was imposed, the projected acres totaled 1,423, but DEP only collected the reclamation fee for 978 acres. Assuming the decreasing trend in number of acres authorized continues apace and the lower than anticipated number of acres for which the fee was collected in 2016 continues, the projected number of acres subject to the reclamation fee for 2023 is estimated at 300. Based on the trend, DEP expects that the number of acres subject to the reclamation fee will continue to decline.

| <b>TABLE 2</b> |              |
|----------------|--------------|
| <b>Year</b>    | <b>Acres</b> |
| 2011           | 3,148        |
| 2012           | 2,287        |
| 2013           | 3,017        |
| 2014           | 2,542        |
| 2015           | 1,919        |
| 2016           | 1,423        |
| 2017           | 1,443        |
| 2018           | 826          |
| 2019           | 601          |
| 2020           | 276          |
| 2021           | 330          |
| 2022 Projected | 300          |

**PROJECTED REVENUE**

**Reclamation Fee**

The projected revenue for fiscal year 2022-2023 from the reclamation fee is \$30,000. This is based on a reclamation fee of \$100 per acre, which went into effect on January 1, 2020, and will continue through 2023.

**Interest**

DEP estimates that interest on the money in the Reclamation Fee O & M Trust Account will generate about \$10,000 in income for the 2022-2023 fiscal year.

**Civil Penalties**

DEP projects that about \$200,000 will be available from civil penalty revenue for the 2022-2023 fiscal year.

## **Other Revenue**

[Act 157 of 2012](#) provides other potential revenue streams to the Reclamation O & M Trust Account including an annual appropriation from the Gross Receipts Tax. This was done once during the 2016-2017 fiscal year.

In addition, DEP expects the interest on the money supporting the Land Reclamation Financial Guarantees to generate about \$50,000 during the fiscal year. DEP transfers this interest each year into the Reclamation Fee O & M Trust Account.

## **PROJECTED EXPENDITURES**

The total projected expenditures based on the approved spend plan for fiscal year 2022-2023, as explained in further detail below, is \$1,083,076.

### **Personnel Costs**

The total projected debit for DEP personnel costs from the Reclamation Fee O & M Trust Account from July 2022 through June 2023 is \$21,000. The amount reflects labor for the monitoring that DEP undertakes for the ABS Primacy bond forfeiture sites.

### **Lab Costs**

The total projected debit from the Reclamation Fee O & M Trust Account from July 2022 through June 2023 is \$10,000. This is the expected cost for the analysis of the samples collected and analyzed by DEP while monitoring the ABS Primacy bond forfeiture sites.

## Grants

DEP projects it will award grants of approximately \$482,421 for O & M from July 2022 through June 2023 for the following sites listed in Table 3. This includes projected costs for the O & M for the C & K sites where the Clean Streams Foundation is the trustee. DEP executed a grant agreement with the Clean Streams Foundation for the O & M for the Al Hamilton sites. Currently, the Clean Streams Foundation periodically submits their expenses for O & M of the ABS sites for reimbursement.

| <b>TABLE 3</b>      |                  |                      |                       |
|---------------------|------------------|----------------------|-----------------------|
| <b>Company Name</b> | <b>Site Name</b> | <b>Permit Number</b> | <b>Grant Amount</b>   |
| C & K Coal Co.      | Bell Woodcock    | 11783035             | \$62,021              |
| C & K Coal Co.      | Stroud           | 11823002             | \$1,900               |
| C & K Coal Co.      | Cambria 51       | 11850106             | \$47,675              |
| C & K Coal Co.      | Snyder-Sertik    | 10860118             | See Note <sup>1</sup> |
| C & K Coal Co.      | Hill Estate      | 16713004             | See Note <sup>1</sup> |
| C & K Coal Co.      | Smith-Heasley    | 16803030             | See Note <sup>1</sup> |
| C & K Coal Co.      | Kriebel          | 16840103             | See Note <sup>1</sup> |
| C & K Coal Co.      | Racic            | 61783001             | See Note <sup>1</sup> |
| Al Hamilton Contr.  | Miller Stein     | 17753159             | See Note <sup>2</sup> |
| Al Hamilton Contr.  | Sandturn         | 17803176             | See Note <sup>2</sup> |
| Al Hamilton Contr.  | Morris 2         | 17810104             | See Note <sup>2</sup> |
| Al Hamilton Contr.  | Pearce           | 17820106             | See Note <sup>2</sup> |
| Al Hamilton Contr.  | Carnwath         | 17820166             | See Note <sup>2</sup> |
| Al Hamilton Contr.  | Ralston          | 17850109             | See Note <sup>2</sup> |
| Al Hamilton Contr.  | Kauffman         | 17890115             | See Note <sup>2</sup> |
| Al Hamilton Contr.  | Kauffman North   | 17970107             | See Note <sup>2</sup> |
| Al Hamilton Contr.  | Little Beth      | 17723164             | See Note <sup>2</sup> |
| Bituminous Coal Co. | Addison Strip    | 56773136             | \$32,500              |

For the purpose of planning, DEP has received authorization for \$50,000 for unexpected grants. However, DEP has not included this amount in the reclamation fee calculation as there is no expectation to spend this money.

<sup>1</sup> The projected O & M costs for the five C & K primacy sites is \$90,000.

<sup>2</sup> The projected O & M Costs for the nine Al Hamilton sites is \$248,325.

## Contracts

DEP expects contract costs from July 2022 through June 2023 to total \$569,655. The contracts cover the sites in Table 4.

| <b>Company</b>                 | <b>Site Name</b> | <b>Contract Amount</b> |
|--------------------------------|------------------|------------------------|
| H & D Coal Co.                 | Merola           | \$15,000               |
| Gurosik Coal Co.               | King Mine        | \$80,000               |
| REM Coal Co.                   | Truittsburg Mine | \$20,000               |
| REM Coal Co.                   | Orcutt Smail     | \$120,000              |
| Pengrove Coal Co.              | Martin Bell      | \$50,000               |
| Glacial Minerals Inc.          | Blair            | \$25,000               |
| Avery Coal Co. Inc.            | Pine Glen        | \$21,480               |
| Thompson Bros. Coal Co.        | Alder Run        | \$42,169               |
| PA Energy Corp.                | Horse Hill Strip | \$1,236                |
| Acme Drilling Inc.             | Broom Strip      | \$3,569                |
| Delta Mining Inc.              | Maust Mine       | \$2,088                |
| D & E Construction             | Moore            | \$2,131                |
| Delta Mining Inc.              | Bashore          | \$20,000               |
| American Development Co.       | Job 33           | \$35,000               |
| Met Co. Mining & Minerals Inc. | Ankey Mine       | \$847                  |
| Delta Mining Inc.              | Hay 2            | \$1,000                |
| H & H Coal Co.                 | James E. Long    | \$577                  |
| Laurel Land Development Inc.   | McDermott Mine   | \$10,000               |
| Big J Mining Inc.              | Sorber Mine      | \$35,000               |
| Windber High Std. Coal Co.     | Brant Strip      | \$2,179                |
| L & B Coal Co.                 | No. 5            | \$1,900                |
| C & O Coal Co.                 | Burkholder       | \$1,030                |
| Power Operating Co. Inc.       | Vought           | \$7,000                |
| Pengrove Coal Co.              | Ruth Mine        | \$25,000               |
| Darmac Coal Inc.               | No. 14           | \$5,000                |
| L & L Mining Inc.              | Berkey Strip     | \$500                  |
| Moshannon Passive Systems*     | Multiple         | \$41,949               |

*\*A contract is in place for O & M, as needed, on a group of passive treatment sites managed by the Moshannon District Mining Office. The sites included under this contract include Power Operating Dugan 2 and Dugan 4, M & M Latherow, Thompson Bros. No. 1, Lobb Narco, Bernice Lewis, Avery Victoria and Chews Little D.*

For the purpose of planning, DEP has received authorization for \$37,500 for unexpected contracts. However, DEP has not included this amount in the reclamation fee calculation as there is no expectation to spend this money.

The various sites listed in the tables are not meant to be an all-encompassing list of the ABS Legacy Sites. Some sites are not listed when O & M is not required, or it is being done by the Department and those costs are reflected in the lab and personnel areas.

**Adjusted Projection of Expenses**

Prior to the 2018 reclamation fee report, previous reclamation fee reports have relied solely on the approved spend plan for the Reclamation Fee O & M Trust Account to project costs from the account. However, this method of projection has proven to be inaccurate. Table 5 shows the comparison of projected vs. actual expenses since the Reclamation Fee O & M Trust Account was established. In the 2019 reclamation fee report, 90% of the projected spend plan was chosen based on evaluating the percentage of actual vs. projected expenses for the previous fiscal years. Unlike the first year when the Department’s projection fell short of the actual expenses, the past two years, the projected has been more than double the actual expenses. DEP still feels that this is a more reliable predictor and will be using this modified approach again this year.

| <b>Fiscal Year</b> | <b>Projected Expenses Based on Spend Plan</b> | <b>Modified Projected Expenses</b> | <b>Actual Expenses</b> | <b>Percentage of Actual vs Projected</b> |
|--------------------|---|------------------------------------|------------------------|--|
| 2008-2009          | -   | -                                  | \$9,957.52             | -  |
| 2009-2010          | \$762,200.00                                  | -                                  | \$84,625.16            | 11.10%                                   |
| 2010-2011          | \$366,500.00                                  | -                                  | \$106,633.77           | 29.10%                                   |
| 2011-2012          | \$602,872.00                                  | -                                  | \$168,603.21           | 27.97%                                   |
| 2012-2013          | \$810,492.00                                  | -                                  | \$821,213.13           | 101.32%                                  |
| 2013-2014          | \$959,334.00                                  | -                                  | \$499,122.48           | 52.03%                                   |
| 2014-2015          | \$861,500.00                                  | -                                  | \$369,197.98           | 42.86%                                   |
| 2015-2016          | \$949,785.00                                  | -                                  | \$501,358.39           | 52.79%                                   |
| 2016-2017          | \$980,499.00                                  | -                                  | \$483,642.01           | 49.33%                                   |
| 2017-2018          | \$827,486.00                                  | -                                  | \$458,840.02           | 55.45%                                   |
| 2018-2019          | \$1,318,923.00                                | \$800,000.00                       | \$1,046,281.36         | 79.33%                                   |
| 2019-2020          | \$1,032,810.00                                | \$925,000.00                       | \$472,201.41           | 45.72%                                   |
| 2020-2021          | \$1,118,370.00                                | \$900,000.00                       | \$348,968.25           | 31.20%                                   |
| 2021-2022          | \$1,027,267.00                                | \$620,000.00                       | \$550,361.83           | 53.58%                                   |
| 2022-2023          | \$1,083,076.00                                | \$650,000                          | -                      | -  |

Based on the projected expenses for the past nine fiscal years, DEP has concluded that taking 60% of the spend plan cost is a reasonable prediction of the actual expenses. Using this approach, the projection of the expenses in the 2022-2023 fiscal year will be about \$650,000. (This was determined by taking 60% of \$1,083,076.00 and rounding up.) DEP decided that using this number to project the expenses for the Reclamation Fee O & M Trust Account will be more reliable in determining whether a reclamation fee is needed or not. If this approach underestimates the actual expenses for the fiscal year and the reclamation fee account approaches the \$3,000,000.00 threshold, DEP has additional civil penalty in the amount of \$1,500,000.00 that could be transferred as well as money from the LRFG account.

## Financial Summary

| TABLE 6                    |                     |                          |
|----------------------------|---------------------|--------------------------|
| Income                     | FY 2021-2022        | FY 2022-2023 (Projected) |
| Interest                   | \$5,185.75          | \$10,000.00              |
| Reclamation Fee            | \$68,241.00         | \$30,000.00              |
| Civil Penalties            | \$178,118.35        | \$200,000.00             |
| Other (LRFG Interest)      | \$23,332.42         | \$50,000.00              |
| LRFG Premium Transfer      | \$0.00              | \$0.00                   |
| Additional Civil Penalties | \$0.00              | \$0.00                   |
| <b>Total</b>               | <b>\$274,877.52</b> | <b>\$290,000.00</b>      |

| Expenses              | FY 2021-2022        | FY 2022-2023 (Projected) |
|-----------------------|---------------------|--------------------------|
| DEP Lab Costs         | \$136.80            | \$10,000.00              |
| DEP Personnel         | \$36,057.67         | \$21,000.00              |
| Contracts             | \$247,629.53        | \$569,655.00             |
| Grants                | \$251,735.61        | \$482,421.00             |
| Electricity           | \$4,403.87          | Included in Contracts    |
| Hydrated Lime         | \$10,398.35         | Included in Contracts    |
| <b>Total</b>          | <b>\$550,361.83</b> | <b>\$1,083,076.00</b>    |
| <b>Adjusted Total</b> |                     | <b>\$650,000.00</b>      |

### Reclamation Fee Calculation

Based on the June 30<sup>th</sup> balance in the Reclamation Fee O & M Trust Account (\$3,697,687.54), the civil penalties (\$178,493.00) and LRFG interest (\$23,332.42) transferred, the projected revenue (\$290,000.00) and expenses (\$650,000.00), DEP has determined that **a reclamation fee of \$100 per acre is still needed for calendar year 2023.** This will maintain the minimum balance in the Reclamation Fee O & M Trust Account of \$3,000,000 as required under 25 Pa. Code § 86.17(e)(3).

For the purpose of determining the reclamation fee amount, DEP did not include the authorized contingency of \$87,500.00 for contracts and grants in the calculation. DEP will monitor the balance in Reclamation Fee O & M Trust Account to determine if it is approaching the \$3,000,000 threshold. If it is likely that the balance will reach the threshold, DEP will transfer additional civil penalty money or funds from the LRFG premiums to maintain the balance above the required minimum.

**Reclamation Fee Arithmetic**  
**TABLE 7**

**Pluses**

|                         |                       |
|-------------------------|-----------------------|
| Balance Above \$3 M     | \$697,687.54          |
| Civil Penalties (21-22) | \$178,493.00          |
| LRFG Interest (21-22)   | \$23,332.42           |
| Projected Income        | \$290,000.00          |
| <b>Total</b>            | <b>\$1,189,512.96</b> |

**Minuses**

|  |                     |
|--|---------------------|
| Expected Expenditures 2022-2023        | \$650,000.00        |
| Expected Expenditures Second half 2023 | \$325,000.00        |
| <b>Total</b>                           | <b>\$975,000.00</b> |

|                       |              |
|-----------------------|--------------|
| Calculated Difference | \$214,512.96 |
|-----------------------|--------------|

**2024 Projection**

Based upon the spending and income trends, DEP projects that a reclamation fee will likely need to continue without an additional revenue source. Considering the increasing trend of expenses, additional funding may eventually be needed to maintain the minimum balance of \$3,000,000.

**ABS Legacy Sites Trust Account**

The ABS Legacy Sites Trust Account was established under 25 Pa. Code § 86.187(a)(2)(i), effective August 30, 2008. Table 8 presents the income and year-end balance in the ABS Legacy Site Trust Account from 2012 to 2022.

| <b>TABLE 8</b>     |               |                         |
|--------------------|---------------|-------------------------|
| <b>Year Ending</b> | <b>Income</b> | <b>Year-End Balance</b> |
| June 30, 2012      | \$14,425.56   | \$5,674,432.38          |
| June 30, 2013      | \$12,415.83   | \$5,686,848.21          |
| June 30, 2014      | \$9,818.27    | \$5,696,666.48          |
| June 30, 2015      | \$10,448.00   | \$5,707,114.48          |
| June 30, 2016      | \$17,996.58   | \$5,725,111.06          |
| June 30, 2017      | \$44,308.64   | \$5,769,419.70          |
| June 30, 2018      | \$82,955.76   | \$5,852,375.46          |
| June 30, 2019      | \$140,254.82  | \$5,992,630.28          |
| June 30, 2020      | \$107,328.62  | \$6,099,958.90          |
| June 30, 2021      | \$11,582.69   | \$6,111,541.59          |
| June 30, 2022      | \$8,229.46    | \$6,119,771.05          |

**Report Process**

## Final Report 2022

On September 17, 2022, notice of availability of the draft report was published in the *Pennsylvania Bulletin* see 52 PA.B. 6010 (September 17, 2022). No comments were received during the public comment period.

As in previous years, the Department continues the interaction with the Mining and Reclamation Advisory Board (MRAB) to find a permanent long-term solution to funding the ABS sites. The reclamation fee will remain at \$100 for 2023. DEP reviewed the draft report with the MRAB on October 13, 2022.