

Evaluation of Potential Primacy ABS Discharge Sites

July 2008

The Department has worked to get mine sites with post-mining discharges full-cost bonded or, as an alternative, allow the operator to fund a treatment trust. Where a permittee has multiple permits, the negotiations are usually conducted to resolve the funding for all of their permits. Therefore, there are pre-primacy permits listed below.

The following is a summary of the status of cases that include primacy alternate bonding system permits with post-mining discharges where the full-cost bond has not been posted or a trust funded. It is organized by District Mining Office. The summaries include the number of discharges associated with each permit in brackets []. The Department has developed an Access database to track the status, treatment costs, funding method (bond or trust) and funding amounts. Most of the information below was obtained from this Access database. The Department has initiated the conversion of this database into the eFACTS database, to improve performance and tracking. Annual O&M costs are provided.

Cambria DMO

A. *Payment Plan Trusts*

ACTION MINING INC

Permit numbers: 56803015 (ELK LICK NO 1)[2] & 56823066(SUMMIT NO 3)[3]
Total bond Held: \$476,765.00
Target Trust Value \$1,273,083.00

Trustee is Somerset Trust

As of June 30, 2007, \$836,000 had been deposited in the trust. As of June 2008, the trust is fully funded-database has been updated accordingly.

PBS/Clear Run Trust

Permit numbers: 56663112(CRAIGHEAD BOONE RUN)[1], 56813006(CLEAR RUN MINE)[6], 56840107(CLEAR RUN NO 2 MINE)[11] & 56920112(JOB 5)[2]
Total bond Held \$1,888,600.00
Target Trust Value \$3,627,600.00
Total Annual O & M Cost Estimate: \$198,163 is the annual cost number based upon actual expenses.

Trustee is Smithfield Trust

The CO & A dated March 17, 1999 includes the surety bonds as part of the trust assets. Recent bond releases have occurred based on the value of the trust.

There is about \$2.34 M in cash in the trust. With the bonds as an asset of the trust, this is fully funded. Has been updated in the database accordingly.

B. Trusts/Bonds not finalized

ZUBEK INC

Permit Number: 56663135(WALKER MINE)[1]

Bond Amount \$165,665.00

Target Trust Amount \$253,708.00

Total Annual O & M Cost Estimate: \$10,798

A draft CO & A was sent for legal review in February 2006. Work is underway on the participation agreement.

EP BENDER COAL CO/EP BENDER COAL CO INC

Permit numbers: 11793025(SGL 108A)[2] & 11930102(54 JOB SGL 184)[1]

Bond amount: \$984,800.00 & \$429,500.00 & \$11,200 (11850111)

Target Trust Amount \$2,358,768.00

Total Annual O & M Cost Estimate: \$96,624

The treatment facility is located on permit no. 11850111. A draft CO & A was sent for legal review in May 2007. Operator has proposed a payment schedule. Awaiting the final number for the trustee fee.

MARQUISE MINING CORP

Permit Number: 56950105(MF LAND OPR)[1]

Bond Amount: \$11,600.00

Target Trust Amount \$150,873.00

Required Bond \$319,825.00

Total Annual O & M Cost Estimate: \$6,771

A draft CO & A was sent for legal review in September 2007. Bond is a CD which will be deposited in the trust.

SVONAVEC INC

Permit Number: 56890102(OHLER STRIP)[8]

Bond Amount \$134,900.00

Target Trust \$297,766.00

Required Bond \$569,672.00

Total Annual O & M Cost Estimate: \$12,000 (based on Target trust divided by 25)

A draft CO & A was sent for legal review in July 2006.

ACTION MINING INC

Action 2 Trust

Permit Numbers: 5679123(ROMESBURG)[4], 56860104(SCHROCK)[2],
56880103(JOPA NO 1)[1] & 56950101(POORBAUGH)[1]

Total Bonds \$756,847.00

Target Trust \$770,405.00

Required Bond \$1,338,233.00

Total Annual O & M Cost Estimate: \$31,420 (about \$19,000 is for primacy)

Jopa No 1 is issued to Future Industries and is listed as active in eFACTS. It has the most bond (\$570,285.00), but no treatment costs. MDI indicator is on. Romesburg is pre-primacy.

Consent order is being drafted. This may be handled as an amendment to the existing agreement for the trust listed above for Action Mining.

COONEY BROS COAL CO

Permit numbers: 11773037(CAROFF)[1], 11803038(POT RIDGE 2)[1],
11813039(FELLER NO 2)[3], 11813040(DUNLO NO 1)[1],
11860104(BETHLEHEM)[2], 4270BSM1(DEAN NO 3)[1] & 56743138(POT RIDGE
LASKY)[1]

Total Bonds \$6,290,490.00

Target Trust \$14,336,322.00

Required bond \$25,511,805.00

Total Annual O & M Cost Estimate: \$618,380

Dean No 3 is pre-primacy. Pot Ridge 2 and Pot Ridge Lasky are listed as Regraded in eFACTS but the MDI indicator is on. The costs for the Dean No. 3 are included above. Surety participation is anticipated to facilitate system upgrades. Funding will likely begin through an escrow agreement.

SHADE MINING CO

Permit numbers: 4173SM6(SHAULIS)[1] & 56813050(SHADE NO 3)[1]

Total bonds \$355,345.00

Target Trust \$657,922.00

Required Bond \$1,150,154.00

Total Annual O & M Cost Estimate: \$28,169

Shaulis is pre-primacy.

A draft CO & A was sent for legal review in March 2006

C & O COAL CO

Permit Number 56823108(BURKHOLDER)[1]
Bond \$12,570.00
Target Trust \$53,788.00
Required bond \$81,055.00
Total Annual O & M Cost Estimate: \$1892

A bond demand letter was sent 2/20/08. There is a desire to deposit the collateral bond in a trust.

BLAIRSVILLE ASSOC

Permit Numbers 32823005 (EAGLE)[2] & 39A77SM4(ST CLAIR JOB NO 18)[3]
Total bond \$563,095.00
Target Trust Not Calculated
Required bond Not Calculated

St Clair Job No 18 is pre-primacy. Blairsville Assoc. is a general partnership. The partners are in other companies. Reconstruction of Route 22 has infringed on the previous treatment system. Data has been collected for calculations, based on the new treatment system.

KMP ASSOC INC

Permit number 32940109(EHENGER)[1] & 32990110 (PARK)[0]
Bond \$124,500.00 & \$37,041.00
Target Trust \$273,142.00
Required bond \$498,320.00
Total Annual O & M Cost Estimate: \$11,235

A draft CO & A was sent for legal review in July 2007. Further evaluation is needed.

PBS COALS INC

Permit numbers 3366BSM2(MAGNETO)[3], 4074SM28(GARRETT)[2],
40A77SM12(JOB 21)[1], 56663098(JOLIN (JOB NO 12))[1], 56703124(LAMBERT) &
56813104(ROBERTS)[1]
Total bond \$2,616,845.00
Target Trust Not Calculated
Required bond Not Calculated

PBS has provided treatment cost numbers. Calculations are expected to be completed by the end of July 2008.

Greensburg DMO

A. Trusts/Bonds not finalized

Patriot Mining

Permit Number: 30850103 (VIABLE MINE)[2]
Bond Amount \$117,900.00
Target Trust Amount \$567,049.00 (or \$589,500)
Required bond Amount \$963,346.00
Total Annual O & M Cost Estimate: \$24,637

The operator is still active. Consent order was signed and partial payment made. Agreement specifies 10 payments.

MB Energy

Permit Numbers: 11830102(GRABIAK)[2], 32810135(DIETRICH)[1],
32820134(CBC)[3], 32880108 (BRUSH VALLEY)[2], 3473SM8 (HALL TALENT)[4],
65810113(CAMPBELL SKOVIRA)[5] & 65860105(RIDGE ROAD)[3]
Bond Amount: \$1,862,312.00
Target Trust Amount \$1,291,548.00
Required Bond \$1,843,186.00
Total Annual O & M Cost Estimate: \$96,047

Hall Talent is pre-primacy.

The operator is consolidating operations and is no longer mining. A draft CO & A has been prepared. Progress is being made.

THOMAS J SMITH INC

Permit number: 03940113 (TRULICK)[1]
Total Bonds \$49,600.00
Target Trust \$25,406.00
Total Annual O & M Cost Estimate: \$6,387

Discharge abatement project is completed. Additional monitoring will be necessary to determine the result. Initial results indicate abatement was successful. Will be monitored through Spring 2009.

MINERALS TECH INC

Permit number: 02860201 (HARMAR)[2]
Total bonds \$174,000.00
Target Trust Not Calculated

This was recently added to the list.

Knox DMO

A. *Trusts/Bonds not finalized*

Cloe Mining Co, Inc.

Permit number: 33860113 (101)[1]
Bond amount: \$72,280.00
Required Bond Amount \$89,002.00
Total Annual O & M Cost Estimate: \$1,997

CO & A executed June 13, 2006. Agreement required improvements to the treatment system and a 1-year monitoring period. Notice to submit the additional bond (\$16,722) was sent February 6, 2008. Operator submitted bond, but it was returned for corrections.

Energy Resources, Inc.

Permit Number: 24880103 (Mine 21)[1]
Bond Amount: \$81,945.00
Target Trust \$127,189
Required bond \$248,483
Total Annual O & M Cost Estimate: \$3,962

Meeting was held the week of February 25, 2008. Awaiting a decision from the permittee if they will post a bond or a trust (there was discussion of posting a trust for this site along with another ERI permit with a discharge (24900104) where they had already posted the required additional bond). There is some chance they may choose to litigate the amount.

Western Hickory

Permit Number: 10803018 (31 Mine)[3]
Bond Amount \$449,395.00
Target Trust \$421,881
Required Bond \$783,851
Total Annual O & M Cost Estimate: \$16,486

Bond was forfeited. Forfeiture action was appealed by the operator and by the surety. Settlement discussions appear to be leading to the establishment of a trust. Litigation deadlines are looming (around the beginning of April) which will likely precipitate a solution. CO & A has been signed. **Fully funded in July 2008.**

R.E.M.

Permit Numbers: 16753059 (KEMMER)[2] & 33810109(OLIVEBURG)[1]
Total Bonds \$404,095.00
Target Trust \$207,673.00
Required Bond \$406,943.00
Total Annual O & M Cost Estimate: \$6368

CO & A with the surety company was circulated in the fall of 2007. Arrangements have been made by the surety to complete the required system improvements. They are scheduled to be done as soon as the weather allows. A trust with the Cleans Streams Foundation will be established pursuant to the agreement. Oliveburg is pre-primacy.

Moshannon DMO

A. Partially Funded Trusts

EM BROWN INC

Permit numbers: 17803023 (BASIN RUN)[1] & 17813024(SHAWVILLE)[1]
Total bond Held: \$338,220.00
Target Trust Value Full funding as of 2008 is \$878,254
Total Annual O & M Cost Estimate: \$35,446

\$124,950 paid in as of 2/08. May 2008 balance \$126,102.53.

RIVER HILL COAL CO INC

Permit numbers: 1779145(MCCLOSKEY MINE)[0], 17793044(MCCLOSKEY[1] MINE) & 17910114(DUTCH HOLLOW)[1]
Total bond Held \$146,322.50
Target Trust Value Full funding as of 2008 is \$509,104
Total Annual O & M Cost Estimate: \$19,651

\$345,000 paid in as of 5/08

March 2008 balance was \$359,175.

1779145 is pre-primacy

CO & A dated January 18, 2006

Some additional AMD may need to be included under this trust. A study is underway.

Sky Haven Coal Trust Fund

Permit numbers: 17800124 (MITCHELL #1)[1], 17800147(BUTLER 1)[1],
17803108 (REED #1)[1], 17813084 (GOSS 1)[1], 17813091(ALBERT #1)[1],
17850145(MC PHERSON #2)[1], 17880103 (Troxell #1)[1], 4574SM31 (BUTLER
1)[1] & 45A76SM16 (STOLTZ #1)[1].
Total bond Held \$898,203.00

Target Trust Value Full funding as of 2008 is \$2,412,526

Four of the permits are pre-primacy. **This was fully funded by payment made May 1, 2008.**

B. Trusts/Bonds not finalized

Keystone Coal Co Trust Fund

Permit Numbers: 14743007(HALL)[1] & 14860103 (LITKE #2)[1]

Bond Amount \$461,000.00

Target Trust Amount (2008) is \$264,808

Final negotiations. As of February 2008, should soon be completed.

M&M Const Trust Fund

Permit number: 17870114(LATHEROW)[2]

Bond amount: \$124,880

Target Trust Amount \$140,298

Negotiations on hold pending additional data collection.

Enercorp-Forcey Opr

Permit Number: 17970102 (FORCEY)[2]

Bond Amount: \$110,880

Target Trust Amount Preliminary trust calc. is \$777,485

Meeting was held 2/29/08.

Forcey Coal

Permit Number: 17030117 (BUTERBAUGH NO 3)[1]

Bond Amount \$ 502,338.00

Target Trust Preliminary trust calc. is \$210,349

Meeting scheduled for 3/6/08.

Pottsville DMO

A. Trusts/Bonds not finalized

Lehigh Coal & Navigation

Permit Number: 54733020 (Tamaqua)[1]
 Bond Amount \$7,128,973.49 + 226,629.00 (Phased Deposit)
 Required Bond Amount \$1,094,104??
 Target Trust Amount \$605,663??

Estimated Annual O & M (from the treatment trust database) is \$26,254. AMDTreat calculation based on existing system results in annual O & M of \$545,569. Evaluation of the system suggests that the costs can be reduced substantially. The bond and trust amount listed above (from the database) are questionable because they don't make sense in light of the annual O & M cost. An escrow account has been established and some payments made.

Bond agreement amounts total \$11,370,031.92.

Statewide Summary

As of July 2008, there were 44 primacy permits for which there was not a finalized trust or full-cost bond in place. There are 74 discharges related to these 44 permits. This compares to the December 2007 numbers of 45 permits and 85 discharges as reported in the preamble of rulemaking. There are 4 primacy permits with 4 discharges related to partially funded trusts.

It is impossible to predict how many (or which) sites may fall into the ABS Legacy through bond forfeiture or default. Detailed cost estimates are not yet available for all of these sites. However, in order to demonstrate the \$3 million cushion is adequate, an evaluation of the estimated annual O & M costs has been completed. A very conservative approach was taken in conducting the evaluation. For example, all of the primacy permits where the arrangements for the financial guarantee are not finalized have been included. This includes a few sites where the bond amount exceeds what is needed, but the final arrangements haven't been worked out because they are part of a package deal. For example, the MB Energy, Ridge Road site (65860105) has an estimated annual O & M of \$1,000 and the bond amount is \$677,000. At over 600 times the annual O & M amount, the bond for this site obviously is adequate. This inclusive approach results in a total estimated O&M for these site of less than \$1.5 M. Even if a cataclysmic forfeiture scenario played out, the \$3 M cushion will cover it.

The following table summarizes the information for the primacy permits for which the funding of a trust or posting a full-cost bond has not been completed.

	Operator	Permit	No of Discharges	Estimate O & M	Current Bond Amount
1	Zubek	56663135	1	\$11,000.00	\$165,665.00
2	EP Bender	11793025	2	\$95,000.00	\$984,800.00
3	EP Bender	11930102	1	\$2,000.00	\$429,500.00
4	Marquise	56950105	1	\$7,000.00	\$11,600.00
5	Svonavec	56890102	8	\$12,000.00	\$134,900.00

6	Action	56860104		2	\$2,000.00	\$54,035.00
7	Action	56880103		1	\$0.00	\$570,285.00
8	Action	56950101		1	\$17,000.00	\$70,527.00
9	Cooney	11773037		1	\$620,000.00	\$502,880.00
10	Cooney	11803038		1		\$1,609,830.00
11	Cooney	11813039		3		\$1,324,760.00
12	Cooney	11813040		1		\$498,520.00
13	Cooney	11860104		2		\$628,280.00
14	Cooney	56743138		1		\$1,654,720.00
15	Shade	56813050		1	\$28,000.00	\$310,700.00
16	C & O	56823108		1	\$2,000.00	\$12,570.00
17	Blairsville	32823005		2	No	\$455,200.00
18	KMP	32940109		1	\$12,000.00	\$124,500.00
19	KMP	32990110		0		\$37,041.00
20	PBS	56663098		1	\$400,000.00	\$298,300.00
21	PBS	56703124				\$1,378,860.00
22	PBS	56813104		8		\$246,875.00
23	Patriot	30850103		2	\$25,000.00	\$117,900.00
24	MB Energy	11830102		2	\$30,000.00	\$256,220.00
25	MB Energy	32810135		1	\$17,000.00	\$32,800.00
26	MB Energy	32820134		3	\$1,000.00	\$414,462.00
27	MB Energy	32880108		2	\$3,000.00	\$106,560.00
28	MB Energy	65810113		5	\$5,000.00	\$236,700.00
29	MB Energy	65860105		3	\$1,000.00	\$677,000.00
30	T J Smith	03940113	1		\$7,000.00	\$49,600.00
31	MTI	02860201	2		No	\$174,000.00
32	Cloe	33860113		1	\$2,000.00	\$72,280.00
33	ERI	24880103		1	\$4,000.00	\$81,945.00
34	REM	16753059		2	\$5,000.00	\$374,455.00
35	EM Brown*	17803023		1	\$33,000.00	\$194,220.00
36	EM Brown*	17813024		1	\$3,000.00	\$144,000.00
37	River Hill*	17793044		1	\$20,000.00	\$144,590.00
38	River Hill*	17910114		1	\$1,000.00	\$0.00
39	Keystone	14743007		1	\$11,000.00	\$380,480.00
40	Keystone	14860103		1		\$80,520.00
41	M & M	17870114		2	\$6,000.00	\$124,880.00
42	Enercorp	17970102		2	\$32,000.00	\$110,880.00
43	Forcey	17030117		1	\$9,000.00	\$502,338.00
44	LCN	54733020		1	\$27,000.00	\$7,355,602.49
				74	\$1,450,000.00	\$23,135,780.49

*Partially funded trust in place.