

MINING AND RECLAMATION ADVISORY BOARD (BOARD)

Thursday, October 26, 2006

10:00 A.M.

**Delaware Room, Rachel Carson State Office Building
Harrisburg, PA**

Members/Alternates in attendance: David Osikowicz (Chair), Stan Geary (Alternate), Burt Waite (Member), David Strong (Member), Jack Chamberlin (Member), and Dave Mankamyer (Member), Duane Feagley (Alternate), Richard Fox (Alternate), Susan Germanio (Alternate), Edward Helfrick, Jr. (Member), Robert Hughes (Alternate), Bruce Tetkoskie (Alternate), and Susan Wilson (Alternate).

Others in attendance: Tara Smith (Rep. Shaner's Office), Andy McAllister (WPCAMR), Deb Wilson (JCCD), Todd Beers (JCCD), Steve Hoffman, Curtis Kratz (Penn E & R), Jim Leigey (PA Game Comm.), Jim Charowsky (DEP), Harold Miller (DEP), Joseph Pizarchik (DEP), John Meehan (DEP), Roderick Fletcher (DEP), Brian Bradley (DEP), Pam Milavec (DEP), Nicholle Harman (DEP), and Bill Allen (DEP).

Meeting Called to Order

- Chairman David Osikowicz called the meeting to order at 10:00 a.m. He welcomed everyone and asked that they introduce themselves.
- David Osikowicz moved to approve all the minutes as presented. Stan Geary seconded the motion. The motion was made and the Board unanimously agreed to accept the minutes as presented.

Correspondence

- The Board was not in receipt of any correspondence.
- David Osikowicz moved to approve the letter supporting the Federal Good Samaritan Legislation. David Strong seconded the motion. The motion was made and the Board unanimously agreed to accept the letter as presented.

Committee Reports

- No Policy Committee report.
- Reclamation Committee Report.
 - Discussed Mine Pool Task Force issues. An update is needed from the Department on Mine Pool Task force issues. Some work is needed on addressing Operational and Maintenance activities on treatment systems.

Key Obligation: Dave Strong will have a committee meeting one week before the January MRAB.

- No Regulation, Legislation, and Technical Committee Report.

Sugar Camp Run Discharge Presentation

- The Jefferson County Conservation District gave a presentation on their Sugar Camp Run Discharge reclamation project. The presentation was given by Deb Wilson, District Manager and Todd Beers, Research Technician and included:
 - Trying to find ways to market the water.
 - Trying to reduce sulfates in the water for public consumption.
 - Ultimate goal is to return the fishery and clean the stream. They are going to achieve their goal of reducing the iron and reducing the main discharge.
 - BAMR has been a great help to this project.

Bond Rate Guidelines Update

- Bill Allen, DEP, provided the Board with a Power Point presentation summarizing cost increases and the resulting interim Bond Rate Guideline calculations.
 - The department is hoping to be on target to have the Bond Rate Guideline for next year published so they are effective in April. The arithmetic has been done for the data received through the first nine months of 2006. The focus on the preliminary calculations was on grading and revegetation. The amount is high compared with current numbers. More calculations are needed.
 - Revegetation rates are increasing from \$100 to \$120. These are the 2 primary rates that drive the bond cost. The industry should be prepared to put up additional bonds. The technical guidance document for full cost bonding is being revised as final to include current rates for each annual review. This should be published as final in November. With the next annual review, the new rates will apply.
 - The Department is planning to have the calculations for the final quarter done in January.
 - The Department has requested that the next MRAB meeting be scheduled later in the month to enable them to finalize the data for the board. The Board expressed concerns about the affect the bond rate increases may have on small operators. The Department has been encouraging operators to bid on projects to keep the cost down. If the numbers hold, there could be a 20 percent increase on the bonds.

Key Obligation: To present the calculations for the final quarter for the January MRAB Meeting

Key Obligation: The Regulation, Legislation, and Technical Committee Meet 1 week before The January MRAB meeting to discuss the final calculations.

Water Replacement Supply Operation and Maintenance

- Harold Miller discussed Water Replacement Supply Operation and Maintenance issues. The TGD was open to public review and comment. The final draft is in the process of being finalized.
 - This document provides two means by which to deal with a situation where a replacement water supply is more costly to operate and to maintain. One is that the operator posts a bond and pays the amount of the increased cost and the second way is to reach a settlement with the property owner that brings a final resolution.
 - The draft of this document was made available late last summer for review and comment. DEP received two sets of comments from industry. The comments were helpful and resulted in many changes in the final draft that is currently in the process of final approval. The document is anticipated to be final sometime in November.
 - The Department is revising two forms. One of those forms is the Consent to a Lesser Water Supply. This form was modified to make it applicable in situations where a water supply was lesser in context of its yield, quality, or the fact that the water supply is more costly to operate. Another key modification to this document is the addition of a set of instructions. Another document that was revised is the Release of Liability. Both of these documents were available for public comment. Both forms are finalized and available on the DEP ELibrary.
 - Joseph Pizarchik notified the Board that Harold Miller had been filling in for Bill Allen while Bill was on temporary assignment as the Acting District Mining Manager for the Pottsville District Mining Office. Mike Terretti has selected Tom Callaghan from the Bureau of Mining and Reclamation as the new Mining Manager. His official start is October 28, 2006.

Surface Mine Safety Regulations Update

- John Meehan briefed the Board about updates to Chapter 209 Safety Regulations.
 - The safety regulations for surface mines are being considered for revision to improve safety. The current regulations only cover Bituminous and Anthracite surface mine blasting. The Department does not have any surface regulations on surface industrial mineral mines. The Department has proposed replacing the existing Chapter 209 and using the MSHA regulations, which will eliminate inconsistencies.
 - Another factor in these changes is the results from a five-year Penn State study. The majority of violations of MSHA's regulations and fatalities involve operating unsafe equipment, fire hazards, and housekeeping. The Department is looking at those areas to determine which regulations to adopt.
 - Outreach involved sending questionnaires and letters to all of the licensed operators in the state. Approximately 800 letters were sent out. DEP also held 8 public meetings, asking stakeholders to attend and provide input. Information was posted on the Internet. DEP held presentations for the Pennsylvania Mining Professionals and a few other organizations as well.
 - The department does not intend to use MSHA's enforcement strategy.

Key Obligation: BMR expects to present a draft of the revised Chapter 209 Safety Regulations to the MRAB at their January 2007 meeting.

Reclamation Fee Comments and Response

- Joe Pizarchik provided an update on the proposed rulemaking to eliminate the Reclamation Fee, and the comments received regarding this proposed rulemaking.
 - Earlier this year, the EQB approved the proposed rulemaking to eliminate the \$100 reclamation fee that applies to surface mines. The public comment period is closed. EQB received comments from 6 different associations. They are quite thorough. There are about 30 to 40 pages of comments. Many of the comments are technical and legal in nature. DEP is working to get the comment document prepared so that the final rulemaking package can be presented to the Board and then the EQB.

BAMR Projects/Status Report

- Brian Bradley, DEP gave an update on the current, completed, and planned BAMR projects.

New Business (Proposed Meeting Dates 2007) Board Members

- The proposed MRAB meeting dates for 2007 were revised to January 25, April 26, July 12, and October 25. Burt Waite made the motion and Jack Chamberlin seconded that motion.
- Stan Geary asked for an update on the Greyfields Bill. Joseph Pizarchik informed the Board that the bill is going through the internal process.
- Stan Geary stated that in August OSM published their amended revegetation regulations and inquired if the state reviewed those and wanted to know if the state plan to make changes to the state regulations. Joseph Pizarchik informed the Board that no changes are being contemplated at this time.
- Dave Osikowicz spoke about the Blanket Bond Report from the July MRAB meeting. He would like a report on how the Blanket Bonding Program is working and about not including the conversion assistant bonds. He would like to look into including financial guarantees in the Blanket Bonding Program.
 - Joseph Pizarchik updated the Board on this issue. The Department has the Technical Guidance Document completed. The bonding program is available for operators who want to participate. An operator would have to get pre-qualified. No operators have come forward yet.
 - Mr. Pizarchik also addressed Dave Osikowicz's comment about including financial guarantees in the Blanket Bonding program. The Department will keep the Board updated on this issue.
- Mr. Pizarchik notified the Board that the Interstate Mining Compact Commission has an annual Reclamation Award and the National Mineral Education Award. They are soliciting applications for their reclamation award. Copies of the application packet were offered.
- Mr. Pizarchik provided an update on the Mine Opening Blasting proposed rulemaking, which also addresses blasting and safety on public roads. The changes

were approved as proposed by the EQB. The Department has received some comments on the proposed regulation package and the Department is in the comment period for the Independent Regulatory Review Commission.

- Joseph Pizarchik also spoke of the responsibility for reclaiming Primacy forfeited mine sites which was transferred from BAMR to BDMO and BMR a few years ago. BDMO is doing the fieldwork and BMR is handling the contract management and fiscal end. BMR has been working with OSM to identify the forfeiture sites that have a treatment system on them. One of the main goals is to not build treatment systems that cannot be continually operated and maintained. BMR's overall objective is to see what they can do to maintain the forfeited sites that are out there. The districts are continuing to work on the backlog of forfeited mine sites and BMR may put together a report for the Board as to the progress the districts have made on forfeited mine sites. There are a number of sites in the works and as they get those sites taken care of the Department will be in a better position to assess the discharges on the forfeited mine sites. The goal is not to focus on just bond forfeiture discharges, but also on discharges on abandoned mine sites as well. The Department is looking to focus on where we can get the biggest bang for our buck. Mr. Pizarchik mentioned looking into using Growing Greener money to assist in the continued operation and maintenance of these treatment systems.
- Dave Strong asked if there was an update on the manganese issue with EPA. Joseph Pizarchik stated that EPA was working on the information being provided. They had contacted states and asked what type of data or information was available. In Pennsylvania and other participating states provided information to EPA. Mr. Pizarchik believes that EPA is still working on this issue.

Key Obligation: Put the OSM Revegetation Regulations on the Agenda for the January Meeting.

Key Obligation: DEP will report to the Board as to the progress the District Mining Offices have made on forfeited mine sites.

Open Time (Comments/Questions from Audience)

- No comments.

Adjourn

Dave Osikowicz thanked everyone for their attendance and adjourned the meeting at approximately 12 p.m.