

MINING AND RECLAMATION ADVISORY BOARD (BOARD)

**Thursday, October 23, 2008
Rachel Carson State Office Building
1st Floor, Room 105
Harrisburg, PA
10:00 a.m.**

Voting Members/Alternates in attendance: Jack Chamberlin (Member), Edward Helfrick (Member), David Mankamyer (Member), David Strong (Member), Patty Davenport (Alternate), Janis Dean (DEP), Joe Deklinski (Alternate), George Ellis (Alternate), Richard Fox (Alternate), Sue Germanio (Alternate), Sue Wilson (Alternate),

Others in attendance: William Allen (DEP), Shuvonna Ballard (DEP), Brian Bradley (DEP), Bruce Carl (DEP), James Charowsky (DEP), Roderick Fletcher (DEP), Pat Henderson (SEN), Michael Korb (DEP), Curtis Kratz (Penna. E & R), Daniel Lapato (DEP, Policy), Andy McAllister (WPCAMR), Richard Morrison (DEP), Joseph Pizarchik (DEP), George Rieger (OSM), Marc Roda (DEP), Michael Terretti (DEP), Duane Feagley (Alternate)

Meeting Called to Order

Mr. Strong chaired the meeting, and called the meeting to order at 10:05 a.m. He welcomed everyone and asked that they introduce themselves.

Our Sympathy, to Sen. James Rhoads he will be missed.

Adoption of Minutes

Mr. Strong called for a motion to approve the Board's July 24, 2008, meeting minutes. The motion was made then seconded and with the Board's unanimous vote, the minutes were adopted.

Correspondence

Mr. Strong discussed the letter that the former Secretary of the Pennsylvania Department of Environmental Protection, Ms. Kathleen McGinty. In her letter, former Secretary McGinty requested that the Board assist her on expending present and future funds provided by both the Pennsylvania General Assembly and government of the United States for abandoned mine reclamation.

In addition, the former Sec. McGinty requested the Board's advice on changes to Pennsylvania's Comprehensive Plan for Abandoned Mine Reclamation necessitated by changes in the U. S. Department of the Interior's Office of Surface Mining's Title IV Abandoned Mine Regulations.

The Board expressed its willingness to accept this charge if the new Secretary of the Department, also desires the Board's participation and assistance.

In preparation, the Board has requested and program staff has agreed to begin adding Title IV as a regular agenda item. The Board's Reclamation Committee has tentative plans to convene later this fall to discuss with DEP the next grant application to OSM.

Committee Reports

Policy Committee

No Report

Reclamation Committee

Mr. Strong had discussion regarding some companies that use coal, like Anthracite Region Independent Power Producers Association (ARIPPA) and some of the trade organizations regarding the changes to the beneficial use of ash. He expressed concern about the certification requirements that dropped by factor of 10, which economically affected some companies in his area. There seems to be no out for projects that could be designed with ash that is not certified by the specs in the last draft he saw, before that there was an out.

BMR has other stakeholder meetings scheduled with ARIPPA, the Anthracite Coal Council, the Pennsylvania Coal Association and the Clean Air Task Force prior to the close of the public comment period.

Sue Germanio mentioned that there was a mix up with what the Pottsville Office is doing on coal ash right now? And then they would be mixing waste with ash?

Mr. Allen then followed-up with an explanation regarding the situation with Pottsville was a Clean Fill issue overlaid on coal ash issue. This Clean Fill is not incorporated in the 2 draft guidance documents that the department is working on. As part of the revisions the department is incorporating the reduced limits, and the main issue is arsenic. Under the current scenario there were three coal ash guidance documents that were consolidated into two guidance documents. Changing the certification process, so it will all function like the statewide certification. Two draft technical guidance documents pertaining to the beneficial use of coal ash were published in the *Pennsylvania Bulletin* on September 20, 2008, for public comment. Because of the public and industry interest in this subject the comment period is 60 days. The guidance documents are: 563-2112-224, "Certification Guidelines for the Chemical and Physical Properties of Coal Ash Beneficially Used at Mines," and 563-2112-225, "Mine Site Approval for the Beneficial Use of Coal Ash." The public comment period ends November 19, 2008.

Regulation, Legislation and Technical Committee

No Report

Rulemaking Packages Update

Joe Pizarchik provided an update of the following rulemaking packages as noted below.

Reclamation Fee and Bond Forfeiture

On August 1, BMR submitted a package to OSM to address the required program amendment relating to the defunct Alternate Bonding System (ABS) and other related issues. The entire program amendment package has been posted on the BMR webpage. An integral part of the program amendment is a regulation package that allows for the adjustment of the reclamation fee and establishes accounts to manage the money to be used for the operation and maintenance of treatment facilities for the ABS bond forfeiture discharges. These revisions to the regulations for the reclamation fee were published as final rulemaking in the August 30 PA Bulletin.

Mine Opening Blasting

On August 9, the Mine Opening Blasting regulations became effective upon publication in the PA Bulletin. These regulations amend Chapters 87 (bituminous coal), 88 (anthracite coal), 89 (underground coal mining) and 210 (licensing of blasters).

Surface Mine Safety

On August 9, the Surface Mine Safety regulations (Chapter 209a) became effective upon publication in the PA Bulletin.

2008 Bond Rate Guidelines & Technical

Mr. Bruce Carl, DEP, provided the Board with the Department's updated projection of the 2009 bond rates based on the average costs of recent reclamation projects. The short-push is projected to be \$0.95 per cubic yard, and the long-push \$1.20 per cubic yard. The revegetation cost is projected to be \$1,600 per acre.

BAMR Projects/Status Report

Mr. Bradley reported on BAMR's AML projects over the past six months because he did not attend the July MRAB meeting since it was the annual fieldtrip. Since April 2007, BAMR has completed 21 projects at a cost of 17.1 million dollars. For calendar year 2007, 118 projects were completed at a cost of 20.7 million dollars and covering 746 acres. The 2008 year-to-date numbers are 11 projects at 13.9 million dollars and covering 275 acres.

During the second quarter of 2008 seven new contracts were awarded. BAMR currently has 56 active contracts at a cost of 70.5 million dollars. These projects will restore approximately 2,428 acres of abandoned mine lands.

There are currently 203 projects in the planning and design stage. Based on current projections, funding of over 122 million dollars will be needed and the projects will address 5,200 acres of land reclamation.

New Business

Proposed Letter to Legislature – ABS Fund Shortfall

A revised letter from the Board to selected members of the Pennsylvania General Assembly was drafted requesting the General Assembly assistance in funding the ABS shortfall.

Emergency Funding Reduction

Sue Wilson drafted a letter regarding OSM elimination of funding for emergencies. A great potential benefit for Pennsylvania resulted from Congressional reauthorization of the surface Mining Conservation and Reclamation Act (SMCRA) in December 2006. The new law provides a significant increase in funding available to the Commonwealth (and other eastern mining States) for reclamation of abandoned mine lands thereby reducing water pollution, restoring land and eliminating public safety hazards. Now a federal budget proposal threatens this action by Congress. The budget would turn over the responsibility of funding emergency repairs from the federal level to state level. The lack of federal emergency funds would require Pennsylvania to shift monies from mine land reclamation projects and would hamper its ability to reclaim its huge inventory of high priority abandoned mine lands.

TMDL Revisions

Ms. Sue Germanio asked Mr. William Allen to provide an update on the Total Maximum Daily Load (TMDL). Mr. Allen reported that he had prepared a preliminary draft technical guidance document (TGD), but the process of completing that project was temporarily delayed by a Departmental initiative. He did confirm that the first TMDL list is due by April 2009, and the Department is well on its way of achieving that deadline. No progress on department wide TMDL guidance or policy.

Coal and Saving Taxpayers Dollars

Duane Feagley brought to the Board's attention that by the Commonwealth of Pennsylvania using coal for heating in its facilities saved the taxpayers 32 million dollars.

2009 MRAB Scheduled Bylaws Meeting Dates

January 1, 2009 – meeting date changed to January 21, 2009

April 23, 2009

July 2, 2009 – meeting date was changed to July 23, 2009, time and location TBA.

October 22, 2009

2007/2008 Annual Report

Patty Davenport will get the Annual Report for 2007/2008 year started for Sue Germanio.

Ms. Sue Wilson wanted an update on Bluestone (Coal Mine). Mr. Pizarchik provided a solution.

Adjournment

With no further questions or comments, Mr. Strong called for a motion to adjourn the meeting. The motion was made and seconded and the meeting was adjourned at 12:20 p.m.