

## Reclamation Fee Fiscal-year Report 2014

The regulations at 25 Pa. Code § 86.17(e)(2) require the DEP to prepare a fiscal-year report containing a financial analysis of the revenue and expenditures of the Reclamation Fee O & M Trust Account.

25 Pa. Code § 86.17(e)(4) requires the following factors to be used 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 sources
- Previous year O & M Costs
- Projected number of acres subject to the Reclamation Fee
- Projected Revenue
  - Reclamation Fee
  - Interest
  - Civil Penalties
  - Other sources
- Projected expenditures

### **CURRENT BALANCE**

The balance in the Reclamation Fee O & M Trust Account as of June 30, 2014 was \$3,311,866.28. This balance does not include civil penalties (\$298,650.22) collected during the fiscal year.

### **PREVIOUS YEAR REVENUE**

#### **Reclamation Fee**

The Reclamation Fee for the period July 2013 through June 2014 was \$0. Therefore there was no revenue from this source.

#### **Interest**

Interest was credited to the Reclamation Fee O & M Trust Account from July 2013 through June 2014 in the amount of \$6,187.42.

### Civil Penalties

Civil penalties (less the 5% due to the Environmental Education Fund) will be transferred into the Reclamation Fee O & M Trust Account each year. The total revenue from civil penalties from July 2013 through June 2014 is listed below:

Month	Coal Civil Penalties
Jul-13	\$43,300.00
Aug-13	\$56,319.50
Sep-13	\$20,362.50
Oct-13	\$10,115.00
Nov-13	\$25,920.00
Dec-13	\$49,103.00
Jan-14	\$31,733.75
Feb-14	\$7,410.00
Mar-14	\$54,743.98
Apr-14	-\$1,276.08
May-14	\$9,435.00
Jun-14	\$7,202.00
<b>Total</b>	<b>\$314,368.65</b>

The negative number for April 2014 was the result of the close-out of an account where appealed civil penalties had been deposited. The cases related to this account are undergoing review. As each case is resolved, the eligible funds will be deposited in the SMCRA fund as income from civil penalties.

The net amount eligible for transfer to the Reclamation Fee O & M Trust Account is \$298,650.22. This is 95% of the collected civil penalties. The remaining 5% is required by statute to be transferred to the Environmental Education Fund.

### Other Sources

There was no income from other sources credited during fiscal year 2013-2014. However, under Act 157 of 2012, the interest on the funds held in the Land Reclamation Financial Guarantee (LRFG) Account may be transferred into the Reclamation Fee O & M Trust Account. The available interest to transfer is \$10,193.82 from 2012-2013 and \$21,961.74 from 2013-2014. The intention is to periodically transfer this interest to the Reclamation Fee O & M Trust Account.

Act 157 also authorized the transfer of premium payments for Land Reclamation Financial Guarantees to the Reclamation Fee O & M Trust Account and included the provision for an annual appropriation from the Gross Receipts Tax.

**PREVIOUS YEAR O & M COSTS**

O & M costs were incurred in four categories: personnel costs, lab costs, grants and contracts. The total spent in 2013-2014 was \$499,122.48.

**Personnel Costs**

The total cost to the Reclamation Fee O & M Trust Account for personnel from July 2013 through June 2014 is \$13,099.75. This is for labor for the monitoring that is needed for several ABS Primacy bond forfeiture sites where it is more efficient for DEP to do this work.

**Lab Costs**

The total cost to the Reclamation Fee O & M Trust account for the samples collected and analyzed at the DEP lab for the ABS Primacy bond forfeiture sites from July 2013 through June 2014 is \$7,906.74.

**Grants**

Grants were awarded in the amount of \$284,687.66 from July 2013 through June 2014.

**Contracts**

Contract costs for operation and maintenance of the existing ABS treatment facilities for July 2013 through June 2014 totaled \$193,428.33.

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

The table below 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. The average of these values is 2,817 acres. This is the projected number of acres subject to the reclamation fee for 2015.

<b>Year</b>	<b>Acres</b>
2011	3148
2012	2287
2013	3017

**PROJECTED REVENUE**

**Reclamation Fee**

The projected revenue from the reclamation fee is \$0.

### **Interest**

Interest on the money held in the Reclamation Fee O & M account has been decreasing for the last few years. Therefore \$6,000 in income from interest is projected for the 2014-2015 fiscal year.

### **Civil Penalties**

For purposes of the projection, it is estimated that about \$300,000 will be available from civil penalty revenue for the 2014-2015 fiscal year.

### **Other Revenue**

Act 157 of 2012 provides other potential revenue streams to the Reclamation O & M Trust Account. These include the interest on the funds held in the LRFG Account, premiums from the LRFG program and an annual appropriation from the Gross Receipts Tax. The plan is to routinely transfer the interest from the LRFG Account. The interest available for transfer is \$32,155.56 (\$10,193.82 from 2012-2013 plus \$21,961.74 from 2013-2014).

For 2012-2013, \$71,988.70 was collected from premium payments and deposited in the newly established LRFG Account. For 2013-2014, \$276,563.94 was collected from premium payments and deposited in the LRFG Account. It is estimated that \$300,000.00 will be generated from premium payments in 2014-2015. The transfer of any of this money is being deferred until it is necessary based upon unexpected expenses or a revenue shortfall. Having this money available for transfer provides assurance that the Reclamation Fee O & M Trust Account will be able to be maintained above the required \$3,000,000 minimum balance.

In order to provide the long-term financial stability intended under Act 157 of 2012, it will be necessary to obtain the annual appropriation from the Gross Receipts Tax.

## **PROJECTED EXPENDITURES**

The total projected expenditures for fiscal year 2014-2015, as explained in further detail below is \$861,500.00.

### **Personnel Costs**

The total projected debit for DEP personnel costs from the Reclamation Fee O & M Trust Account from July 2014 through June 2015 is \$25,000.00. The amount is for labor for the monitoring that the DEP is doing for the ABS Primacy bond forfeiture sites.

### **Lab Costs**

The total projected debit from the Reclamation Fee O & M Trust account from July 2014 through June 2015 is \$12,000.00. 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

Grants are expected to be awarded in the amount of \$224,500.00 from July 2014 through June 2015. This includes grants (\$164,500.00) for the O & M for the following C & K sites where the Clean Streams Foundation is the trustee:

Bell Woodcock (Permit No. 11783035), Stroud (Permit No. 11823002), Cambria 51 (Permit No. 11850106), Snyder-Sertik (Permit No. 10860118), Hill Estate (Permit No. 16713004), Smith-Heasley (Permit No. 16803030), Tremba-Horner (Permit No. 16830114), Kriebel (Permit No. 16840103), Racic (Permit No. 61783001).

Also included in the grants total is a grant (\$60,000.00) for the Bernice Mining, Lewis (Permit No. 57830101) site.

## Contracts

Contract costs from July 2014 through June 2015 are expected to total \$600,000.00. The sites covered by these contracts include the following:

<b>Company</b>	<b>Site Name</b>	<b>Contract Amount</b>
H & D	Merola	\$7,000
Gurosik Coal Co	King	\$60,000
REM	Truittsburg	\$7,000
REM	Orcutt Smail	\$50,000
Glacial	Blair	\$175,000
Power Operating	Dugan 2	\$7,000
Avery Coal Co Inc	Pine Glen	\$30,000
Thompson Bros	Alder Run	\$60,000
Ed Hanslovan Coal Co Inc	Keating 1	\$60,000
PA Energy Corp.	Horse Hill Strip	\$3,100
Acme Drilling	Broom Strip	\$4,100
Delta Mining Inc.	Maust Mine	\$1,500
D & E Construction	Moore	\$1,500
Delta Mining Inc	Bashore	\$40,000
American Development	Job 33	\$39,000
Met Co Mining & Minerals Inc.	Ankey Mine	\$1,500
Delta Mining Inc	Hay 2	\$1,500
H & H Coal Co.	James E Long	\$1,500
L & L	Berkey	\$1,500
Big J Mining Inc.	Sorber Mine	\$39,000
Windber High Std. Coal Co.	Brant Strip	\$1,500
L & B Coal Co	No 5	\$4,100
K & J Coal Co. Inc.	Westover	\$2,100
K & J Coal Co. Inc.	Gaber Brown	\$2,100

For the purpose of planning, \$250,000 has been authorized for unexpected contracts. However, for the reclamation fee calculation, the \$250,000 for additional contracts has not been included.

**Financial Summary**

<b>Income</b>	<b>FY 2013-2014</b>	<b>FY 2014-2015 (Projected)</b>
Interest	\$6,187.42	\$6,000.00
Reclamation Fee	\$0	\$0
Civil Penalties	\$298,650.22	\$300,000.00
Other (LRFG Interest)	\$21,961.74	\$20,000.00
<b>Total</b>	<b>\$326,799.38</b>	<b>\$326,000.00</b>

<b>Expenses</b>	<b>FY 2013-2014</b>	<b>FY 2014-2015 (Projected)</b>
DEP Lab Costs	\$7,906.74	\$12,000.00
DEP Personnel	\$13,099.75	\$25,000.00
Contracts	\$193,428.33	\$600,000.00
Grants	\$284,687.66	\$224,500.00
<b>Total</b>	<b>\$499,122.48</b>	<b>\$861,500.00</b>

**Reclamation Fee Calculation**

Based on the June 30 balance in the Reclamation Fee O & M Account (\$3,311,866.28), the civil penalties (\$298,650.22) transferred in July 2014, the un-transferred interest from the LRFG account (\$32,155.56), the projected revenue (\$326,000.00) and expenses (\$861,500.00), and the funds available to transfer from the LRFG premiums (\$348,552.64), if necessary, DEP has determined that the reclamation fee amount can remain at \$0 for calendar year 2015. This will maintain the balance in the Reclamation Fee O & M Account of \$3,000,000 (~\$3,107,172.06) as required under 25 Pa. Code § 86.17(e)(3).

For the purpose of determining the reclamation fee amount, the authorized contingency of \$250,000 for contracts was not included in the calculation. For contingency planning, the balance will be closely monitored in the Reclamation Fee O & M Account balance to determine if it is approaching the \$3,000,000 threshold which must be maintained. If it is likely that the balance will approach the threshold, then transfer of premium payments from LFRGs can be made in order to maintain the balance above the required minimum.

**2016 Projection**

Based upon the spending and income trends, it is likely that a reclamation fee will be necessary beginning in January 2016. Preliminary estimates suggest that about \$300,000 will be necessary from the reclamation fee in order to maintain the balance of

\$3,000,000. To generate this amount of revenue, a reclamation fee \$150 per acre would be needed in calendar year 2016.

In the alternative, an appropriation from the Gross Receipts Tax could offset the need to impose a reclamation fee. In order to offset the reclamation fee, an appropriation of at least \$300,000 would be needed for the 2015-2016 budget year. In order to assure that the need for a reclamation fee can be offset and to provide funding for the ABS Legacy Site Trust Account, the maximum appropriation of \$2,000,000 from the Gross Receipts Tax is warranted.

## **ABS Legacy Sites Trust Account**

The ABS Legacy Sites Trust Account was established by regulation at 25 Pa. Code § 86.187(a)(2)(i), effective August 30, 2008. The following table presents the income and year-end balance in the ABS Legacy Site Trust Account for the last three years.

<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