

MINUTES
MINING AND RECLAMATION ADVISORY BOARD (MRAB)
September 14, 2023

VOTING MEMBERS OR ALTERNATES PRESENT:

Jack Chamberlin (Chamberlin Surveying and Consulting – Member)
Cynthia Carrow (Western PA Conservancy (WPC)/CAC – Member)
John St. Clair (Citizens Advisory Council (CAC) – Member)
Robert Burns (Keystone Anthracite – Member)
Rep. James Haddock (PA House – Member)
James Schmid (Schmid and Company, Inc, Consulting Ecologists/CAC – Member)
Duane Feagley (PA Anthracite Council (PAC) – Member)
Rachel Gleason (PA Coal Alliance (PCA) – Alternate)
Kenneth King (State Industries, Inc. – Alternate)
Emily Eyster (PA Senate – Alternate)
Jacob Gery (PA Senate – Alternate)

OTHER ATTENDEES

John Stefanko (DEP – Active and Abandoned Mine Operations (AAMO))
Joseph Sassaman (DEP – Bureau of Abandoned Mine Reclamation (BAMR))
Amy Berrios (DEP – AAMO)
Nathan Houtz (DEP – Mining Programs)
Sharon Hill (DEP – Mining Programs)
Gregory Greenfield (DEP – Mining Programs)
Daniel E. Snowden, D.Ed. (DEP - Mining Programs/Board Liaison)
Sage Saum (DEP – Mining Programs)
Rachel Colyer (DEP – Mining Programs)
Patrick Webb (DEP – BAMR)
Ryan Farabaugh (DEP – BAMR)
Kevin Giles (DEP – BAMR)
Chad Moyer (DEP – BAMR)
Randy Shustak (DEP – Bureau of District Mining Operations (BDMO))
Roland Gansel (DEP – AAMO)
Ezra Thursh (DEP – Policy Office)
Maximilian Schultz (DEP – Policy Office)
Richard Marcil (DEP – Legal)
Justin Dula (DEP – Office of Environmental Justice (OEJ))
Josie Gaskey (PA Aggregates and Concrete Association (PACA))
Jeffrey Painter (PA Game Commission (PGC))
Scott Linde (Linde International, Inc.)
David Hess (PA Environment News, LLC)

MEETING CALLED TO ORDER/INTRODUCTIONS

The meeting was called to order at approximately 10:00 a.m. Board members and alternates were identified by roll call. Other attendees were visible via Teams and listed on attendees list.

APPROVAL OF MINUTES

The minutes from the April 13, 2023 meeting minutes were approved unanimously, without objection.

CORRESPONDENCE

The reappointments for Jack Chamberlin and David Osikowicz currently underway, as reported by Dr. Daniel E. Snowden, Board liaison.

COMMITTEE REPORTS

There were no Committee Reports to present at today's meeting.

DELIVERABLES

No deliverables were reported for this meeting.

PRESENTATIONS

Coal Mining Program Updates

Gregory Greenfield and Sharon Hill updated the Board on the customary status reports involving financial summaries, revenues, permitting and technical items.

- Trust Agreements: Mr. Greenfield shared the status as of July 31, 2023, and noted the numbers appear to be rebounding nicely.
- Land Reclamation Financial Guarantees (LRFG): The information presented was as of July 31, 2023. Mr. Greenfield remarked that we have been making progress, only one operator now is at the maximum.
- Rec Fee Account Revenue: Mr. Greenfield noted that the modified approach now being used seems to do a better job at estimating numbers. The latest Rec Fee draft report will be ready for the next meeting.
- Surface Mining Conservation and Reclamation Act (SMCRA) Coal Fees and Clean Water Fund (CWF) Mining Fee Revenues: Mr. Greenfield reviewed the tables with the stats. A question was raised about the figures being Fiscal Year, not calendar year, which he confirmed.
- BMP Program Updates: Ms. Hill announced that there is now a tab on the BMP home page of the DEP website where interested persons would be able to find out recent developments regarding the program.
- e-Permitting: Ms. Hill reported that Electronic Hydrologic Monitoring Report (eHMR) submittals now include an option to add Remining data and Coal Ash water quality data via extra buttons.

Reductions in Federal Funding

John Stefanko reported to the Board that the Federal Office of Surface Mining (OSM) was reducing their Title V programs to the States by \$1.2 million. He noted that this amount has been decreasing over the last three years, even though costs have been going up. The Bureau of Labs has also informed us that costs are increasing by 39% as well. He indicated that we are working with the Interstate Mining Compact Commission to better understand the distribution of funding, so that we can approach Congress to fight for better appropriations going forward on the Federal level, up to and including letters of support to members of Congress for an increase in funding.

at this point, the meeting was interrupted by a fire drill

Updates from BAMR

Patrick Webb provided the Board with the customary status report on its completed, active, and future projects (including emergency and fully State-funded projects).

Funding Status:

- Bipartisan Infrastructure Law (BIL): Monies are available for projects starting in January 2023, in the amount of at least \$244 million. BAMR would like to aside up to 30% of the \$244 million to be placed into the new “Safeguarding Treatment for the Restoration of Ecosystems from Abandoned Mines” (STREAM) Act set-aside program for long term Abandoned Mine Lands (AML) projects. Additionally, since January 2023 BIL funding has been used for emergency contracts (\$3 million for 8 emergency contracts to date), as well as non-emergency contracts (\$5 million for 4 such contracts) and, forthcoming contracts (up to \$38 million is anticipated for at least 18 estimated such contracts by the end of 2023 to be submitted to DEP Construction Contracts Division).
- Abandoned Mine Lands (AML) Grant Program: For the single round of 2022, 16 subawards have been recommend for award for a total of \$7.8 million going to non-profit organizations, mainly for use in reclamation and acid mine drainage (AMD) projects. For round 1 of 3 of 2023, an estimated amount of \$40 million in BIL monies has been under review of nine applications. Another 28 applications are currently under review for the second round of 3 for 2023 for grant monies under this program, with a third round forthcoming from 10/2/2023 to 12/2/2023.
- DES-22 Request for Proposals (RFP): There are 9 BAMR-related task agreements in place for \$2 million under this RFP. It is anticipated that a total of 16 such agreements will be in place by the end of 2023.
- Staffing: A total of 71 new positions have been added to BAMR; 35 of these positions have been filled.

Updates from the District Mining Offices

Randy Shustak, the new DMO Bureau Director, was introduced to the Board.

- Staffing update: there are still vacancies needing to be filled and key personnel loss through retirement. Mr. Shustak acknowledged that competition from private industry for salaries is one of the biggest challenges for this task.
- Permitting: the workload is being managed by current staff. There is an idea being explored to share the responsibilities of permit application reviews among DMOs.

Environmental Justice (EJ) Policy

Justin Dula from the Office of Environmental Justice (OEJ) gave a presentation on the DEP's Environmental Justice (EJ) Policy.

- Origins for Environmental Justice were explored (Equality/Equity/Justice; redlining/structured racism; Title VI per the 1964 Civil Rights Act; initial environmental justice efforts (landfill in North Carolina (environmental racism); initial Environmental Justice Executive Order (1994); polluting facilities in the City of Chester (PA); DEP Environmental Justice Work Group).
- Definition of EJ (DEP and United States Environmental Protection Agency (US EPA) given).
- Timeline for Federal and State Responses to EJ matters was noted.
- The science behind Disproportionate Environmental Impacts (per the drivers of natural, constructed and social environments) was explained.
- EJ Public Participation Policy and EJ Policy Updates (2018) were reviewed.
- EJ Outreach Efforts for 2022 were noted.
- Current EJ Policy Components were outlined (i.e., introduction; definitions; EJ area criteria; proactive community engagement; enhanced public participation; inspections, compliance and enforcement; community development and investment; climate initiatives; policy updates)
- EJ Mapping Tools were shown, most notably the Indicator Categories (i.e., Pollution Burdens (Environmental Exposures and Environmental Effects) and Population Characteristics (Sensitive Populations and Socioeconomic Populations).
- The calculations for the tools were explained.
- Utilities of the PennEnviroScreen tool for locating EJ areas (per EJ Areas Viewer) were demonstrated, describing, quantifying and mapping disproportionate impacts
- Comparison was made of the EJ Areas Viewer (DEP) to the EJ Screen Tool (EPA)

Mr. Dula then addressed questions from the Board regarding the EJ Policy; the topics included:

- Connections of the EJ Policy to existing environmental laws/statutory authority
- Discrepancies in the methodology used in the EJ Policy (opt-ins, enhanced public participation)
- Permitting timelines and the EJ Policy (contradicting priorities, staff time on EJ matters)

- Comment periods and finalizing of the EJ Policy
- Community organization connections to the EJ Policy (permitting, possible voting issues)
- Concern for EJ Policy as “de facto rulemaking”
- The policy should not extend to the coal industry because, unlike landfills and highways, coal is an in-place resource
- Rationale for coal mining being given a more enhanced review under the EJ Policy
- Possible delays in permitting due to the EJ Policy; operators experience delays under the current policy
- Interactions between DEP Regional Offices and District Mining Offices
- Actual meaning of “community” (this would be for those living in the area of a coal mining operation; too often, persons from outside the area of the coal mining operation weigh in coal mining permits as well)
- Screening Tool (weight assigned to categories; training; examples of formulas)
- Use of 2010 census data (as the 2020 census data does not work with the current EJ system)
- Rural Populations (Amish – not subject to unemployment/lack of health insurance/no educational attainment – all by choice from this community)
- Exclusion of skin cancer from consideration in the EJ Policy; possibilities of cancers being more related to genetic dispositions than facilities in an area
- Coal mining rationale in the EJ Policy Screening Tool:
 - Initial citation on pollution from coal mining relates to the use of coal for power generation, not coal mining.
 - Communities located near coal mining sites may also be at risk for negative health impacts due to exposure to pollution from coal mining activities, including air and water pollution from coal mining – this relates to power generation and miner exposure to coal dust, not coal mining.
 - Coal miners’ exposure to coal dust is regulated by the Mine Safety and Health Administration (MSHA). A respirable dust regulation was adopted in 2014 and no data has been collected since then. A new silica rulemaking was proposed this summer. Not related to communities surrounding coal mining.
 - Studies have found that communities with coal mining activity experience higher levels of pollution in Pennsylvania. This study is based on barium and sulfate pollution from coal mining discharges– this relates to abandoned coal mines and not active coal mines (discharges for active mining are regulated)
 - Improper waste disposal from coal mining (citation used related to waste from power generation, not coal mining)

NEW BUSINESS

There were no items discussed during this period.

NEXT MEETING

The next meeting will be held on November 9, 2023 at 10:00 a.m., in Conference Room 105 of the Rachel Carson State Office Building, in Harrisburg.

ADJOURNMENT

The Board adjourned its meeting at approximately 12:15 p.m.