

## MINUTES OF MEETING

### GOVERNOR'S MINED LAND RECLAMATION ADVISORY COMMITTEE

A meeting of the Governor's Mined Land Reclamation Advisory Committee was held on June 10, 2010 at 2:00 p.m. at the Department of Mines, Minerals and Energy Office in Big Stone Gap.

#### Present

Barbara Altizer (via phone)  
Robert Brendlinger  
Harry Childress  
Jackie Davis  
John Paul Jones  
Tommy McAmis  
Jackson McClanahan  
Vanessa Perry  
Phil Shelton

#### Absent

Terrance Collier  
Jerry Hamilton  
Donna Stanley  
Doug Wells

#### Also Present

Bradley Lambert  
Sandy Smith  
Bill Bledsoe

Chairman John Jones called the meeting to order. He asked if any old business was left open to discuss from the last meeting. There was none.

#### **Status of Permitting with the U.S. Army Corps of Engineers and Environmental Protection Agency**

Interagency permit process meetings and site visits with the Division of Mined Land Reclamation (DMLR), U.S. Army Corps of Engineers (Corps), Environmental Protection Agency (EPA), Office of Surface Mining (OSM), U.S. Fish & Wildlife Service, and Department of Environmental Quality have been ongoing for nine months. The purpose of the meetings is to discuss permit issues/problems and what can be done to solve them. EPA is using the guidance in the Memorandum of Understanding signed between the Corps, EPA, and Department of the Interior as an incentive to conduct the meetings. There was a lengthy discussion of MOUs and EPA's issues in the permitting process.

The workload of the Corps has been a significant issue addressed in the interagency meetings. The Corps has added additional staff and assigned them to work in different coalfield counties. This will enable the staff to become familiar with their work area and make jurisdictional determinations by looking at the location, fills and ponds and have a better understanding when the permits come to them. This will also help with the permit review backlog.

A multi-state meeting is scheduled for June 28 in Charleston with the State Regulatory Authority's Department Directors and the Attorney's General Office of each state. The April 1 letter from EPA and Water Quality Narrative Standards will be discussed at this meeting.

A meeting that will have an impact on coal was held at the Air Pollution Control Board on June 11. Citizens presented a petition to the Board to have DEQ use extensive additional dust regulations concerning mining areas associated with roads. This is an important issue that has been brought forward and discussed at length among industry, citizens groups, and the Air Pollution Control Board. DMLR and DEQ have worked out a guideline for permits concerning additional dust methods.

The Pond Passmore Study and an ongoing study by Virginia Tech staff were discussed. The Pond Passmore Study concerns the benthic community. The Virginia Tech Study is specifically for TDS conductivity in Virginia. OSM funding for the Virginia Tech research project may be discontinued in 2011. OSM plans to use the money to fund a Stream Protection Environmental Impact Statement.

The number of permits issued since January, 2009 and the average number of permits prior to that date were discussed. A report showing that information will be distributed to Committee members. Bradley Lambert suggested writing a letter to the Governor to let him know what/how the Committee thinks DMLR is doing; the impact EPA and the Corps will have on the coal industry and DMLR; and the struggles DMLR is having while trying to work with Federal agencies. Chairman Jones made a motion to draft a letter to the Governor. The motion was seconded. Chairman Jones and Bill Bledsoe, Virginia Mining Association, will draft a letter. The letter will be circulated among the Committee members for review prior to sending to the Governor.

OSM has a new initiative with oversight of State programs. OSM is conducting independent site inspections without notifying DMLR. This issue was included in the OSM and DMLR annual work plan agreement for this year. Bradley Lambert refused to sign the work plan with that statement included. OSM staff will not take enforcement action. They will notify DMLR of the violation, have DMLR visit the site and write the Notice of Violation. If DMLR does not take action, OSM will issue a Ten Day Notice. OSM also wants to do independent reviews of permit adequacy after a permit has been approved by DMLR. They want to go back to some point in time and review permits to determine whether or not the permit was adequately reviewed by DMLR. There was a lengthy discussion of this issue – it is of great concern.

### **Reclamation Trends and Bond Release Applications**

There was a brief discussion concerning the sequencing issue in fills from a practical application site.....completing one fill before going to another fill would be problematic.

Bond release applications are being released more than applications are being permitted. The information received through the Corps and EPA, contemporaneous reclamation is going to be the key in the way vegetation is done rapidly, trees are planted rapidly, etc. It is the

concurrence that reclamation is going to be a major factor seen, not only in OSM documents, but also the TDS conductivity and potential impacts to streams.

The Approximate Original Contour (AOC) will be another issue. One of the trends being seen as a possibility is when getting ready to permit a site, a footprint is created....how the site looks at the present time and sees how close it can be put back to the AOC. DMLR may start using Earth Vision to evaluate permits.

Jack McClanahan provided information concerning the Southwest Regional Recreation Authority, better known as the Spearhead Trails. The State created the Southwest Regional Recreation Authority and it's about developing trails throughout Southwest Virginia. It covers the Lenowisco and Cumberland Plateau Districts, which is approximately 3,000 square miles. The ATV trails are patterned after the Hatfields – McCoys of West Virginia. This is seen as an economic engine and to show compatibility with the mining industry and recreation. The Sheriff's Department will assign deputies to patrol the trails. The trails will be separated; motorized trails will be primarily in the mining region. Great strides have been made in less than three years and it is past the capabilities of volunteers. Money is needed to operate, pay a staff, etc.

Bradley Lambert informed the Committee of a change in how members are chosen to serve on the Committee. Upon the expiration date of membership, members must apply to serve via the Governor's website. The website will be sent to all members.

### **Conflict of Interest Training**

Matt Stanley provided the Conflict of Interest training to members that had not taken the training.

The meeting was adjourned.