

Minutes of Meeting
Virginia Remining Ad Hoc Advisory Work Group
September 8, 2004
Location – Powell River Project

Attendees:

Butch Lambert – VA DMME	Benny Wampler – VA DMME
Roger Williams – VA DMME	Richard Davis – VA DMME
Les Vincent – VA DMME	Joey O’Quinn – VA DMME
Matthew Crum – Nature Conservancy	
Ian Dye – OSM	Bob Penn – OSM
Tim Brehm – OSM	Duane Beggs – Rapoca
Phil Shelton – UVA Wise	Carl Zipper – VA Tech

Benny Wampler opened the meeting by welcoming everyone.

No-Cost Agreements – Richard Davis

No-cost agreement projects resulted from ideas of Virginia's Remining Ad Hoc Advisory Work Group. Looking for a beneficial and more economical means of excess spoil disposal, the committee proposed spoil disposal on abandoned mine lands. Backfilling benches to eliminate highwall have been the nature of no-cost agreements to date although other AML features lend themselves to such reclamation. The no-cost agreement eliminates the need for mining companies to construct costly and controversial fills for excess spoil disposal.

Through the agreement, a coal company places its excess spoil on the solid bench of an abandoned mine land reclamation project. There is no requirement to permit this disposal area, although the company is required to backfill, establish drainage control, and vegetate the area. Material from both surface mines and underground mines can be used to eliminate the AML feature. Entering into an agreement does not bring on liability for total highwall elimination. The requirement is that the company use excess spoils on the project to eliminate as much of the AML feature (highwall, etc.) as possible.

No-cost agreement projects are set up as routine AML projects. After consulting with state and federal agencies, DMLR submits a project document to OSM. After an OSM review and approval, work can begin upon the contractor submitting bond and liability insurance. The bond is \$250 per acre. The bond can be returned as soon as vegetation successfully establishes.

To date, DMLR has completed two no-cost projects, has seven ongoing projects, and has four projects pending. The projects have resulted in more than 17,000 feet of Priority 3 highwall being eliminated.

AML Enhancement – Richard Davis

Abandoned Mine Land Enhancement (AML) projects resulted from a 1999 rule change of the federal Office of Surface Mining (OSM) to increase the amount of reclamation accomplished. The rule change now allows government financing on projects to be less than 50% of the total budget, and the coal removal is exempt from

permitting requirements. Proceeds from the sale of coal go to offset the cost of project reclamation. The enhancement rule requires Title IV (AML) and Title V (active) branches to make findings and set limits of coal removal. One finding must be that there is little likelihood of the area being permitted and mined as a stand-alone permit. All coal removal must be an engineering necessity that is incidental to the reclamation project. There is risk and reward on enhancement projects, as the government agency does not make any guarantee as to the quality or quantity of coal.

Enhancement projects are set up as routine AML projects. After consulting with state and federal agencies, DMLR submits a project document to OSM. After an OSM review and approval, work can begin upon the contractor submitting bond and liability insurance. The government financing usually takes the form of tree planting over the project. Gob piles and remnant highwall areas are features well suited for AML enhancement.

To date, DMLR has completed two enhancement projects, three are ongoing, and eleven are pending.

Total Maximum Daily Loads – Joey O’Quinn

Joey O’Quinn gave the remining workgroup an update on TMDL development in Virginia’s coalfields. Virginia’s State Water Control Board (SWCB) recently adopted Total Maximum Daily Loads (TMDLs) for Black Creek, Dumps Creek, Lewis Creek, and the Guest River. These are the first four approved TMDLs for streams in the Commonwealth where coal mining was identified as a source of impairment. Virginia’s Department of Mines, Minerals, and Energy (DMME) and Virginia’s Department of Environmental Quality (DEQ) have been working cooperatively, under a September 2000 memorandum of understanding, to develop TMDLs for mining impaired streams. DMME administers the mineral extraction component of the TMDL process, awards and manages contractual services for TMDL development and special TMDL related studies, and provides technical assistance related to mining. DEQ manages the public participation process, coordinates with other agencies, and submits TMDLs to the U.S. Environmental Protection Agency for approval and the SWCB for adoption. Although DEQ is charged with the development of TMDLs in Virginia, an important part of the process is the involvement of all stakeholders.

TMDL is a term used to describe the amount of pollution a stream can receive and still meet applicable water quality standards. The acceptable amount of pollution is expressed as a load. Streams not meeting water quality standards are identified on the state’s 303(d) list of impaired waters and will have a TMDL completed. The TMDL report is the document containing the TMDL along with the data, the study, and the processes utilized to establish the acceptable load. Currently, Virginia has approximately 125 impaired waters in TMDL development, and will begin work on an additional 240 projects beginning as soon as fall 2004. Eight of the impaired waters in TMDL development are listed as impaired due to resource extraction. There are about 25 impaired waters across the Commonwealth listed as impaired due to resource extraction.

After TMDLs are developed, approved, and adopted, state law requires the development of an implementation plan to address non-point sources of the identified pollutant - described as the stream’s load allocation (LA) - and the modification of existing point source discharge permits as necessary to comply with the waste load

allocation (WLA). An implementation plan is currently being developed for the Guest River with plans for Black Creek, Dumps Creek, and Lewis Creek to follow in the near future. Minor modifications may be necessary to the existing DMME issued discharge permit conditions in Dumps Creek. All four recently adopted TMDLs for coalfield streams formally recognize remining as a method for addressing the non-point source loads from abandoned mine land features in the watersheds.

Water Monitoring (deleting) – Joey O’Quinn

Joey O’Quinn also gave the remining workgroup a status report on agency efforts to improve efficiency of monitoring point deletions to facilitate bond release. About a year ago, DMLR developed a procedure for field inspectors to initiate sediment pond and NPDES point deletions instead of waiting on the permittees to prepare and submit a revision request for those purposes. Approval for pond removal and NPDES point deletion is now documented by a plan modification included within the inspection report. By being pro-active, monitoring points are being deleted in a timely fashion

Update on Remining – Butch Lambert

Butch Lambert gave a brief update of the statue of remining in Virginia. Numbers of acres permitted in Virginia for the year 2003 were 2542. Of that number 1742 were acres that were previously disturbed. Previously disturbed means acres that were mined prior to August 3, 1977. The percent of remining acres to total acres permitted was 68%. This number reflects a drop in the percent of remining acres. There were two permits for a total of 529 acres that was not remining. The average of remining acres had been averaging around 80-85%. Butch will check on these two permits to be certain that they were no remining acres involved.

Bond Release Initiatives – Butch Lambert

DMLR has met the requirements of strategy 1.03.01 in the Operational Plan. This strategy states that DMLR will form a workgroup to develop standardized language for inclusion in complete inspection reports that will specifically outline requirements for final bond release. DMLR will also develop staff training on vegetation, productivity and other surveys and DMLR will assist permittees with these surveys. Operators may now call on DMLR field inspectors for assistance in completing the vegetation surveys and other productivity reports.

Pool Bond Regulation Change – Butch Lambert

The new pool bond regulation that was proposed over three years ago is going through the comment period. The comment period will expire on October 12, 2004. So far there has been no comments received. OSM has not published the rule in the Federal Register. It may take a couple of months to get this through the OSM process. IN the meantime, DMLR will accept pool bond release application and process as cost bond applications but will hold final approval of the application pending new regulation approval.

Abandoned Mine Land Re-Authorization – Benny Wampler

Benny Wampler gave an update on the status of the AML re-authorization that is set to expire on September 30, 2004. There has been no activity this bill at this time. Benny stated that Congressman Boucher is supporting and extension of the bill but nothing is certain at this point. There are currently four different versions of the bill before Congress. DMLR is supporting the Bush administration bill that includes the AML Enhancement and reming. Other versions do not include these important items.