



United States Department of the Interior

OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

Charleston Field Office
1027 Virginia Street, East
Charleston, West Virginia 25301



APR 30 2015

Randy Huffman, Secretary
West Virginia Department of
Environmental Protection
601 57th Street, SE
Charleston, West Virginia 25304

Dear Mr. Huffman:

As you know, the Office of Surface Mining Reclamation and Enforcement (OSMRE) approved major changes in the State's alternative bonding system mainly because State law provided for the creation of the Advisory Council to oversee the State's Special Reclamation Fund. At the time of approval and even today, OSMRE still feels that the success of the State's alternative bonding system is largely dependent on the Advisory Council, because that body was created to ensure the effective, efficient, and financially stable operation of the Special Reclamation Fund.

Currently, your agency, in cooperation with the Advisory Council, is preparing to issue a contract to an actuarial firm to evaluate the long-term financial condition of the Special Reclamation Fund, including the Special Reclamation Water Treatment Trust Fund. My purpose for writing is to identify some of the potential liabilities that exist that I do not find have been fully analyzed in future risk with the actuarial report process.

I have previously discussed these concerns with members of your staff and the Advisory Council. Given the precarious financial situation that many of the State's coal companies find themselves in today, it would be prudent for the West Virginia Department of Environmental Protection (WVDEP) and the Advisory Council to consider the risk of failure of some of the sites with unusual reclamation liabilities that may be more costly than reflected by existing forfeitures to date.

Some examples include, but are not limited to:

- Several companies within the State have or are proposing to construct selenium treatment systems. The cost to install one of these systems can range from few million dollars to \$50 million. The annual operating and maintenance costs of these selenium treatment systems can run several million dollars depending on the amount of water to be treated. As you know, many of these selenium treatment systems are in the experimental stage, and their effectiveness is still not proven.

- There is a pipeline and reverse osmosis plant in Mannington, West Virginia, which was completed in March 2013, and treats pre-treated water from five (5) active and inactive underground mines. The reverse osmosis plant removes chlorides and total dissolved solids from the mine water. The plant, which can treat up to 3,500 gallons per minute, together with the pipeline cost approximately \$200 million to construct and has an operating and maintenance cost of several million per year.
- OSMRE recently released two reports (Fairmont and the North Branch of the Potomac mine pools) indicating hydrologic connections among underground mines that requires extensive pumping and treatment to prevent pollution to major river systems. Other such systems exist within West Virginia that have not been studied. The construction and annual maintenance costs of these treatment facilities are largely unknown to regulators at this point.
- Stream loss, due to subsidence by underground mining, is another issue that has received little attention in the past during actuarial reviews. However, the cost to restore a stream and to replace the aquatic life therein once water loss has occurred can be expensive and difficult to achieve.

When projecting future liabilities about the Special Reclamation Fund in the past, actuarial firms have relied heavily on historic bond forfeiture reclamation data. Although they exist, we do not believe the issues described above have been factored into their assumptions or projections. This is primarily because some are relatively new issues or they were not fully recognized as being potential liabilities in the past. Therefore, I recommend that you bring these issues to the Advisory Council and request that they be presented to the actuarial firm for consideration during the upcoming actuarial study.

We also ask that WVDEP and the Advisory Council pursue concepts that would build the type of financial assurance program that would truly address the potentially perpetual nature of many of the water pollution discharges. It is evident that a varying fee on current production will not sustain the funds necessary for treatment systems for the decades or centuries required. Thank you for giving this matter your immediate attention. Please notify us if we can provide you or the Advisory Council any assistance with this effort.

Sincerely,



Roger W. Calhoun, Director
Charleston Field Office

cc: Patty Hickman
Michael Sheehan