Office of Surface Mining
Reclamation and Enforcement

Pittsburgh Field Division

Evaluation Report

ALTERNATIVE BONDING SYSTEM STATUS UPDATE

Maryland Regulatory Program

Evaluation Year 2004

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GOALS AND OBJECTIVES

1. Conduct a status review of Maryland's bond pool liability and Alternative Bonding System (ABS).
2. Determine a schedule for reclaiming the remaining forfeitures in Maryland
3. Review changes in the Maryland bonding program since EY 2002.

SUMMARY

This review was conducted as a follow-up to a study conducted during the 2002 evaluation year. Maryland has made significant progress toward addressing the issues identified in the 2002 study:

- The 2002 ABS deficit of $524,760 has been reduced to $143,098
- Maryland is on schedule to eliminate the ABS deficit by August, 2004
- Unreclaimed forfeiture sites have been reduced 50 percent , from four to two

Two issues remain. Maryland's ABS still does not address catastrophic forfeitures, an issue identified in the original actuarial study of the system and in the 2002 study. Also, the time to begin reclamation of forfeiture sites remains high, diluting the buying power of forfeiture dollars through inflation.

BACKGROUND AND HISTORY

An analysis of the Maryland Alternative Bonding Program was done by OSM during the 2002 Evaluation Year. The analysis revealed that Maryland's ABS system carried an estimated $524,760 deficit for reclaiming existing bond forfeiture sites in the state.[1] This deficit was caused by four unreclaimed forfeitures. The study recommended that Maryland review the flat bond rate and income to the supplemental reserve to assure sufficient bond is available to cover costs for all current and anticipated forfeitures.

The study also noted that there were increasing time delays involved in the reclamation of forfeiture sites in Maryland and recommended that Maryland should consider measures to "speed up" the reclamation of all forfeiture sites.

The third recommendation was that Maryland should initiate a plan, within their overall bonding program, to address catastrophic events such as multiple bond forfeitures at one time.

This updated analysis is a follow-up to the 2002 study. The History and Background of the Maryland bonding system is contained in that report. The report also contains the bonding rates

[1] Maryland Alternative Bonding System Analysis, EY2002

for Phase I, II and III bonds, describes the process for funding the bond pool, and discusses characteristics of the "Special Reclamation Fee" and the "Mine Reclamation Surcharge".

DISCUSSION

At the time of the 2002 evaluation, Maryland's ABS carried an estimated $524,760 deficit for the four existing forfeitures in the state. These forfeitures included:

Oliver 233	revoked	1/1988
Jones 405	revoked	5/1993
T.D. Mining 403	revoked	5/1998
Kirby 373	revoked	3/2001

The deficit was based on a total estimated liability cost of $1,251,000 for reclamation and total assets of $726,240. ($1,251,000 - $726,240 = $524,760)

Notable changes have occurred in the financial reclamation status of the ABS and outstanding bond forfeitures since the 2002 report[2]. The following table and narrative provide a comparison of the status of these projects at the time of the 2002 report versus this update.

MINE SITE	ESTIMATED REMAINING RECLAMATION COSTS		FLAT BOND AVAILABLE		REMAINING RECLAMATION COSTS OVER FLAT BOND	
	2002	**2004**	**2002**	**2004**	**2002**	**2004**
Oliver 233	$172,000	$0	$142,500	$0	$29,500	$0
Jones 405	$25,000	$0	$0	$0	$25,000	$0
TD Mining 403	$910,000	$816,186	$241,127	$241,127	$668,873	$575,059
Kirby 373	$144,000	$144,000	$5,887	$76,087	$138,113	$67,913
Totals	**$1,251,000**	**$960,186**	**$389,514**	**$317,214**	**$851,486**	**$642,972**

These changes are enumerated below:

1. The Oliver 233 permit, the oldest of the four forfeitures, consisting of 20 acres, has been reclaimed at a cost of $190,250, of which $47,750 was from the bond pool. Reclamation was done in conjunction with active permit SM-96-432.

2. Jones 405 – The final phase (Phase III) of this project has been completed at a cost of $3,900, all of which was from the bond pool.

[2] See exhibit 2 for most current information on forfeiture status

3. The T.D. Mining 403 permit is the largest and most expensive of the existing bond forfeitures. The estimated cost for reclaiming the site is $910,000. A portion of this site has been repermitted. Re-permitted Mining and reclamation operations will include 10 acres of the forfeiture area. The remaining 52 forfeited acres will be reclaimed under a sole-source contract with United Energy Coal Co., the new permittee, in accordance with a letter to the property owner's representative dated August 29, 2003 (exhibit #3). The 10 repermitted forfeiture acres are expected to reduce the total cost of the project by $93,814.

4. The Kirby Energy permit 373 had a bond forfeited in the amount of $76,087, of which $70,200 was uncollected at the time of the 2002 OSM due to the insolvency of the Surety Company.

   MDE staff have now secured the entire bond amount. Total estimated cost of reclamation at the Kirby site is $144,000, Construction is planned for 2005.

   The site is being shown to prospective operators for the purpose of remining the remaining coal reserves in conjunction with the forfeiture reclamation.

As part of this update, MDE Bureau of Mines Permitting, Administrative and AML personnel were interviewed. Budget projections and cost estimates were reviewed for the purpose of determining the solvency of the bond pool.

The following figures were developed as part of these discussions:

ACCOUNT	BALANCE		DIFFERENCE
	2002	**2004**	
Reclamation Fee	$69,020.18	$119,495.18	$50,475
Bond Forfeiture	$536,548.52	$436,086.34	-$100,462.18
Bond Supplemental	$120,672.60	$261,507.93	$140,835.33
Totals	**$726,241.30**	**$817,088.52**	**$90,848.15**

Estimated Costs: Existing Forfeitures

T.D. Mining 403	$816,186
Kirby Energy	$144,000
Total	$960,186

Existing deficit= $817,088 account balance - $960,186 reclamation cost = -$143,098 (deficit)

Based on Income projections of $16,876 per month[3], the Maryland ABS fund should be solvent in approximately 8.5 months[4] (from 1/1/04). This projection would support the estimate in the 2002 report for solvency by August, 2004[5], indicating that replenishment of the fund is on schedule..

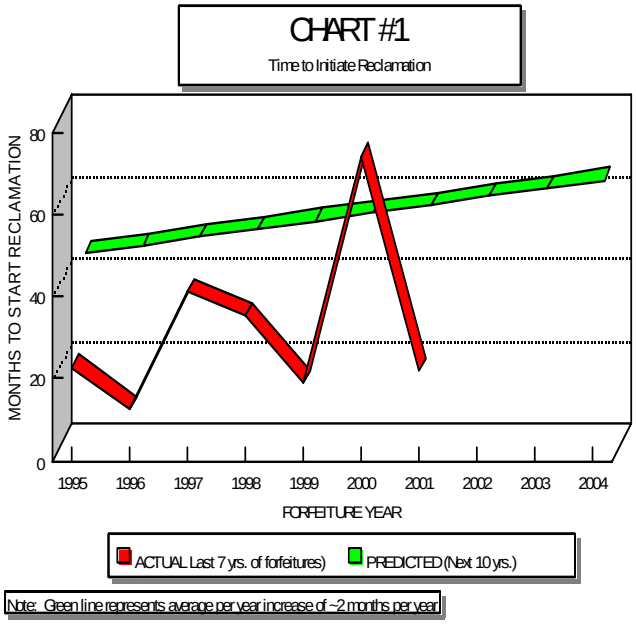
The improved financial status of Maryland's bonding system is based primarily on the following:

1. Receipt of bond money from the Kirby Energy forfeiture.
2. Increased balances in the $75.00/acre account from $69,020 in 2001 to $119,495 presently.
3. Increased Bond Supplement Reserve Funds from $120,672 to $261,507.93.
4. Estimated savings in the overall cost of reclaiming the TD Mining permit.
5. Completion of expenditures for the Oliver 233 and Jones 405 permits.

CATASTROPHIC FORFEITURES

Previous Actuarial studies conducted in 1994, an OSM study on bonding in 1991 and 2001 have pointed out the need for Maryland to develop and implement a plan intended to handle a catastrophic event such as one large forfeiture or a series of forfeitures during the same time period.

Continued low bonding rates, limits on Supplemental Fund to be collected, projected reduced production from deep mines, and reduced acreage being permitted will result in having fewer funds available for catastrophic forfeiture events. Without increased bond pool money, Maryland's ability to handle a catastrophic forfeiture would be severely tested.



TIME TO RECLAIM

Regression analysis from the 2002 report showed that the average expected time to begin reclamation has been increasing by approximately 2 months per year (See Chart #1). Forfeitures made in 1998 such as TD Mining were projected to take fifty months to begin reclamation, and

[3] Based on latest 6 months receipts (July – December '03) to the $75/acre Reclamation Fee account ($18,825) plus Bond Supplemental account ($82,432.35).

[4] $143,098 unfunded liability /$16,876 income/month = 8.5 months

[5] 30 months from 2/1/02

for forfeitures made in 2001, such as Kirby, the projected time is fifty-six months[6]. These statistics have remained unchanged. Because the Maryland Bond pool does not bear interest, inflationary factors associated with the time from forfeiture to beginning reclamation have an adverse affect on the pool. Any measures Maryland can introduce to lessen the time from forfeiture to beginning reclamation of a forfeited site will help the pool remain solvent.

RECOMMENDATIONS

1. The cap on the $300,000 Bond Supplement Reserve along with the non-interest bearing nature of the account should be changed to allow for additional funds to be accumulated. The fund increase would help ensure that Maryland could handle a catastrophic forfeiture.
2. Mine forfeiture reclamation should be carried out by Maryland in a more expeditious manner. The increased costs associated with inflation should be carefully weighed against the time it takes to find an operator to mine the site.

[6] Estimates are plus or minus 20.8 months standard deviation (Exhibit E, Table 2)

EXHIBITS

Exhibit 1 – United Permit SM-03-403

000570

State of Maryland

DEPARTMENT OF THE ENVIRONMENT
BUREAU OF MINES
COAL MINING OPERATIONS PERMIT

Permit No.: SM-03-403	Date Issued: 3/25/04
Application No.: 03-29	Expiration Date: 12/31/08
Permit Type: Surface X Deep ____	Permitted Acres: Surface / Deep
Original: *Reinstatement & Reissuance	Acres this Permit: 36 / ____
Amendment: Significant (____) IBR (____)	Previous Acres Permitted: *173 / ____
Transfer: ____	Total Acres Permitted: 36 / ____
Incremental No.: ____	Open Acre Limit: 22

Pursuant to the provisions of Title 15, Subtitles 5 and 6 of the Environment Article, Annotated Code of Maryland as amended, and the rules and regulations adopted pursuant thereto, the Maryland Bureau of Mines (herein referred to as the Bureau) hereby authorizes:

United Energy Coal, Inc.
Permittee

32 Enterprise Drive, Oakland, MD 21550 — 301-533-0306
Address — Phone

(herein referred to as the Permittee) to commence or continue the coal mining operation described in the above referenced application document which is expressly incorporated herein and made part of this permit. The operation shall be conducted in accordance with the above referenced laws and regulations, the approved permit application, and the attached general and special conditions.
(This constitutes the Reinstatement and Reissuance of 36 acres of former permit SM-85-03).

I hereby attest that I understand and agree to the terms and conditions of the permit including the attached general and special conditions.

Charles R. Hawdershell — Vice-President — 2/26/04
Company Officer — Title — Date

I hereby grant approval of the issuance of this permit.

Jack E. Cosy — Director, Bureau of Mines — 3/25/04
Authorized Agent, Department of the Environment — Title — Date

Exhibit 2 – Forfeiture Status Report

BOND FORFEITURE RECLAMATION PROJECTS
SEMI-ANNUAL REPORT
Updated Through the Period Ending: March 31, 2004

Prepared By: John C. Eilers

COMPLETED MINE FORFEITURE RECLAMATION

COST PERMIT BOND	REVOC. DATE	CONST. START DATE	BOND AMOUNT	TOTAL ACRES RECLAIMED	CONST. COST	CONST. COST/ACRE	TOTAL REVEG. COST	REVEG. COST ACRE	TOTAL RECL. COST	TOTAL ABOVE
317	09/06/79	07/21/81	16,000	6	35,300	5,883	4,200	700	39,500	23,500
226	09/18/80	09/23/81	16,000	10	16,511	1,651	5,000	500	21,511	5,511
291	07/31/79	12/01/81	13,900	7	22,398	3,200	2,800	400	25,198	11,298
262	08/16/78	07/15/82	46,200	25	55,680	2,227	12,320	493	68,000	21,800
303	11/16/81	07/25/82	38,000	15[1]	--	--	22,630	1,509	22,630	(15,370)
DM106	09/14/81	07/26/82	16,600	6	19,500	3,250	3,000	500	22,500	5,900
258/285	05/09/79	11/08/82	100,200	80	250,000	3,125	35,000	438	285,000	184,800
242	02/05/81	05/28/84	46,000	15	88,436	5,896	7,500	500	95,936	49,936
361	09/26/84	05/01/85	99,200	70	162,814	2,035	32,000	400	194,814	95,614
341	09/28/83	08/22/85	150,000	47	168,500	3,585	23,500	500	192,000	42,000
312	06/27/80	11/19/85	308,400	95	305,240	3,213	74,360	783	379,600	71,200
308	11/07/84	05/05/86	84,000	50	169,618	3,392	37,500	750	207,118	123,118

387	09/28/88	03/03/92	64,800	23	39,388	1,713	22,655	985	62,043	(2,757)
296 Ph-I	06/28/89	06/01/92	129,900	48	256,500	5,029	42,000	875	298,500	168,600
376	07/06/92	06/19/93	66,600	34	224,200	6,594	35,700	1,050	259,900	193,300
296 Ph-2	06/28/89	09/01/93	-0-	20.5	66,077	3,174	24,276	1,184	89,353	89,353
296PH-3	6/28/89	08/31/94	-0-	27	135,500	5,019	32,000	1,185	167,500	167,500
378 Ph-1	07/23/92	10/17/94	185,300	40	49,920	1,248	45,480	1,137	95,400	(89,900)
378 Ph-2	07/23/92	07/15/96	89,900	3	9,323	4,662	2,635	878	11,958	(77,942)
SC107	09/21/94	07/15/96	18,900	7.5	23,645	3,153	4,185	558	27,831[2]	8,931
296 PH-4	06/28/89	06/15/98	-0-	6	24,260	4,043	3,954	659	28,214	28,214
405 PH-1	05/27/93	05/01/99	97,800	29	248,572	8,571	32,575	1,123	281,147	183,347
335	04/14/93	09/14/99	143,460	125 gpm[3]	202,093	N/A	1,525	1,150	203,343	59,783
405 PH-2	05/27/93	04/01/00	-0-	27	165,586	6,133	30,328	1,142	195,914	195,914
233	01/07/98	08/06/01	142,500	20	168,250	8,412	24,000	1,200	192,250	49,750
405 PH-3	5/27/93	07/01/03	-0-	4	21,796	5,449	4,800	1,200	26,596	26,596

UNRECLAIMED MINE FORFEITURE SITES

PERMIT	REVOCATION DATE	BOND AMOUNT	ACRES DISTURBED	CONSTRUCTION COST EST.	ESTIMATED COST > BOND
405 Ph-4	05/27/93	-0-	1	15,300	15,300
403	05/28/98	241,127	97	$ 910,000	$ 668,873

373	03/08/01	76,087	23	$ 159,000	$ 82,913
Total:		**$ 317,214**	**121**	**$ 1,084,300**	**$ 767,086**

NOTE: [1] Revegetation Only

[2] Does Not Include Cost of Providing Topsoil for Site

[3] Construction involved treating 125 Gal/Min AMD + Reveg. of 1.5 acres

Prepared By: John C. Eilers Date: March 31, 2004

Exhibit 3 - August 29 United 403 Letter

CA GR

MARYLAND DEPARTMENT OF THE ENVIRONMENT
1800 Washington Boulevard • Baltimore MD 21230
410-537-3000 • 1-800-633-6101

MDE

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Kendl P. Philbrick
Acting Secretary

August 29, 2003

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2003 SEP -4 AM 11: 29
APPALACHIAN REGIONAL COORDINATING CENTER

Mr. Jason C. Buckel
Buckel & Levasseur
213 Washington Street
Cumberland, Maryland 21502

Dear Mr. Buckel:

Thank you for your inquiry regarding the status of reclamation on the revoked mining permit SM-84-403 near Midland. Since very early this year, there has been an ongoing dialogue between the Bureau of Mines, Mr. James Oberhaus (the adjoining property owner to Mr. Horner within the originally permitted area), and United Energy Coal, Inc. regarding the mining and total reclamation of this site.

As was indicated to Mr. Horner when we spoke last, the Bureau of Mines had prepared plans to secure a contract for the total reclamation of the site, without respect to any additional mining, and intended to follow the necessary procurement procedures to obtain a contract for reclamation to begin by sometime this fall. In December of last year, John Carey, Director of the Bureau of Mines was contacted by Mr. Oberhaus and United Energy expressing an interest in the continuation of mining of the remaining coal reserves on the revoked permitted area. Discussions began in January and continued for several months to determine what areas were of interest; the regulated facilities such as drainage control structures and haul roads, etc. that would have to be upgraded to regulatory standards before mining could begin; and the time frame in which mining and reclamation would begin and be completed. At the same time, United Energy was evaluating the remaining coal reserve to determine the feasibility of moving forward with this effort.

By late spring, these meetings and discussions resulted in a verbal commitment from United Energy to apply to the Bureau to reinstate some part of the original Permit 403. United Energy has been working to prepare the application and meeting with Bureau of Mines permitting staff to determine the necessary requirements to submit a viable application. United Energy has verbally committed to submit the application and revised plans by September 1, 2003. Upon receipt of the application, the Bureau of Mines will modify their reclamation plans to reclaim the remaining portion of the disturbed area not covered by the new mining operation which will include Mr. Horner's property.

It was not anticipated that this process would take as long as it has. Although, please be assured that the process is moving forward positively and will be completed as soon as possible. It is our goal to expedite the permitting and procurement process to initiate reclamation by late this fall or early winter. While I cannot provide an absolute guarantee of that time frame, it is clearly our intent to proceed with that objective.

In the mean time and until equipment is actually working on the site, Mr. Horner should feel free to contact John Carey at the Bureau of Mines (301-689-6104) or me for an update on the progress being made. Knowing that the process to achieve complete reclamation has not been as expeditious as desirable, the Bureau has on several occasions made arrangements with outside contractors to grade, upgrade, and maintain the road through the originally permitted area to facilitate access to the Horner and Cesnick properties. We will continue to do so until reclamation is completed.

Again, thank you for your interest in this matter and please contact John Carey or me if we can assist you further. .

Sincerely,

C. Edmon Larrimore, Program Manager
Mining Program

cc: John E. Carey, Bureau of Mines
George Rieger, Office of Surface Mining