



IMCC Holds Annual Meeting in Wheeling, West Virginia and Adopts Resolution Re. SMCRA

The Interstate Mining Compact Commission's (IMCC) 2011 Annual Meeting was held at Oglebay Park's Wilson Lodge in Wheeling, West Virginia on April 3 - 6, 2011. Twenty of the twenty-four IMCC member states were represented. Joe Pizarchik, Director of the Office of Surface Mining (OSM) in the Department of Interior and several OSM regional directors and staff members were also present and participated in the joint meeting of the Abandoned Mine Lands (AML) and Coal Environmental Affairs Committees on Monday and Tuesday.

A welcoming reception kicked off the meeting on the evening of Sunday, April 3. Randy Huffman, Cabinet Secretary of the West Virginia Department of Environmental Protection welcomed attendees the morning of April 4 and presented an overview of current significant mining issues in the state. The general session followed with speakers addressing various mining topics of interest including, "Overview of Key Mining Issues Before the 111th Congress" by Kathleen Benedetto, Republican Legislative Staffer, Subcommittee on Energy and Mineral Resources, House Committee on Natural Resources; "Recent Developments re. Issuance of NPDES Permits for Bond Forfeiture Sites" by Thomas L. Clarke, Director of the West Virginia Division of Mining and Reclamation; and "Beyond AMD: Managing Water Quality Issues Associated with Conductivity, TDS and Selenium" by Dr. Paul Ziemkiewicz, Director of the West Virginia Water Research Institute at West Virginia University. Immediately following the general session, the Commission met in Executive Session prior to the joint meeting of the Abandoned Mine Lands and Coal Environmental Affairs Committees. Attendees enjoyed a networking dinner buffet on the evening of April 4.

During the Executive Session, state representatives reviewed a draft Resolution which was revised and later adopted by the full Commission during the Executive Commission Business Meeting. The resolution reasserts IMCC's commitment to the principles of primacy and federalism that underlie implementation of the Surface Mining Control and Reclamation Act of 1977 (SMCRA) and encourages the Office of Surface Mining Reclamation and Enforcement (OSMRE) to do the same. The resolution addresses three recent OSMRE directives issued as part of its Oversight Improvement Actions Initiative concerning the use of Ten-Day Notices (INE-35) and the annual evaluation of state program implementation (REG-8 and REG-23). IMCC identifies Directives Reg-8 and Reg-23 as being inconsistent with the federalism scheme embodied in SMCRA and undermining state primacy. The resolution also states that INE-35 is "illegal and contrary to SMCRA, particularly with regard to permit defects". The resolution urges OSMRE to rescind its Ten-Day Notice Directive (INE-35) and to work cooperatively with the states in re-designing Directives REG-8 and REG-23 concerning the annual evaluation of state programs to incorporate state concerns.

The meeting of the Coal Environmental Affairs Committee resumed the morning of April 5 and was followed by the Joint Meeting of the Mine Safety & Health and Noncoal Environmental Affairs Committees. IMCC's Annual Awards Banquet took place in the evening where the National Annual Reclamation Awards and Minerals Education Awards were presented.

On April 6, the Resolutions and Finance & Administrative Committees joint meeting was held in the morning. The Executive Commission Business Meeting followed and concluded the 2011 Annual Meeting.

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Upcoming Meetings:

IMCC 2011 Mid-Year Meeting

October 18 - 19, 2011
Marriott Grand Hotel
Point Clear, Alabama

For more information on IMCC Meetings as it becomes available, visit our website: www.imcc.isa.us and click on the "Conferences" tab. Copies of IMCC's Compact Newsletter are also available on the website by clicking on the "Publications" tab.

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IMCC 2011 Mid-Year Meeting Scheduled for Point Clear, Alabama

The Interstate Mining Compact Commission's (IMCC) 2011 Mid-Year Meeting will be held from October 18 - 19 at the Marriott Grand Hotel in Point Clear, Alabama. Registration and hotel reservation information will be posted on IMCC's website (www.imcc.isa.us) and sent by email to IMCC states and interested parties in the near future.

The Noncoal Environmental Affairs and Mine Safety & Health Committees will meet jointly on October 18. A joint meeting of the Coal Environmental Affairs and Abandoned Mine Land Committees will follow. There will be a luncheon on this day and a reception in the evening.

On Wednesday, October 19, the joint meeting of the Resolutions and Finance & Administrative Committees will take place. The Executive Commission Business Meeting will immediately follow and will conclude the Mid-Year Meeting.

For more information visit the IMCC's web site at <http://www.imcc.isa.us> and click on the "Conferences" button, or contact: Beth Botsis at phone: 703.709.8654 or e-mail: bbotsis@imcc.isa.us.

IMCC Presents 2011 National Reclamation Awards

The Interstate Mining Compact Commission (IMCC) presented its annual national reclamation awards in Wheeling, West Virginia on April 5 during the 2011 Annual Meeting. Named after the charter executive director of the Compact, the Kenes C. Bowling National Mine Reclamation Awards are presented each year to mining operations in the coal and noncoal categories that have demonstrated excellence in reclamation based on achievement in five categories: compliance; contemporaneous reclamation; drainage control; bond release (or reclamation success); and innovativeness.

The 2011 winner in the coal category is Patriot Coal Company, LP, Patriot Surface Mine, located near Henderson County, Henderson, Kentucky. The 2011 winner in the noncoal category is Frozen Ropes Baseball Company, LLC, Frozen Ropes Sports Park, located in Chester, New York.

This year's winner in the coal category, Patriot Coal Company, LP's Patriot Surface Mine, is located in eastern Henderson County, Kentucky. At one time, the permit totaled 1,013 acres divided into eight separate bond increments. All reclamation of the disturbed area has been completed and all reclamation bonds released, with the exception of one increment covering 97.37 acres which remains active. After two previous permit holders declared bankruptcy, the permit area was transferred to Patriot Coal Company, Ltd. In 2001. At the time of the transfer, there were two unreclaimed open pits along with several hundred acres of barren spoil and several hundred acres of reclamation covered with rills and gullies that had developed since the mine had been shut down. In 2006, the permit was subsequently transferred to Patriot Coal Company, LP (this transfer was due to a partnership change). Approximately four million tons of coal had been mined from the site when it was active. Although the permit no longer included any remaining mineable coal, Patriot purchased the property as part of a larger acquisition to increase its coal reserves at nearby sites. Although there was no further profitable mining to offset reclamation costs, Patriot finished the major reclamation projects left behind by the bankrupt companies, thereby saving valuable abandoned mine land reclamation fees. The postmining land uses for the permit included cropland, pastureland, and fish and wildlife enhancements.

A notable feature of the reclamation work completed by Patriot is the amount of prime farmland that has been restored on the permit. Of the 841.3 prime farmland acres, all but 63 acres have been completely reclaimed and all bonds released. A highlighted feature of the area is a 32-acre final pit impoundment that Patriot Coal reclaimed from the final pit left behind by one of the previous permit holders that went bankrupt. A large portion of this area is currently slated to become a part of the Henderson County Park system. Several unique features are slated to be constructed by the county in association with the park.

The 2011 winner in the noncoal category is Frozen Ropes Baseball Company, LLC for its Frozen Ropes Sports Park, located in Orange County in Chester, New York. The original permit was issued to Gangemi, Salerno & Fini in 1991 and was referred to as the "Gateway Hill" site. The permit authorized the consolidated surface mining of shale/slate from approximately 9 acres of a 12 acre parcel owned and controlled by the permittees. The quarry produced, on average, 100,000 to 150,000 cubic yards of material annually. Originally the reclamation objective was to prepare the area for commercial development of an office park. Subsequent modifications of the permit also led to a modification of the final reclamation objective to that of open space. When Frozen Ropes acquired the mining permit in September 2009, the approved final reclamation plan was modified again. Frozen Ropes' reclamation objective was to provide a year-round sports training park/facility. The goal was to provide a venue for professional instruction in baseball, softball, football, and soccer and to provide field and facility rentals for other turf sports. Frozen Ropes

incorporated the existing quarry benches into the modified reclamation plan for use as additional natural seating areas and as a fitness trail with specifically designed workout stations installed along the upper bench.

By way of a legal agreement with the former permittee, Frozen Ropes re-commenced mining and excavation operations in July 2009, prior to having the mining permit transferred into their name. This was necessary to bring the mine floor down to the desired grade, to clean up and stabilize the perimeter benches, and to begin the installation of the storm water pollution control features. Drainage control proved to be very challenging due to the location of the facility within the footprint of the former quarry with relatively steep perimeter slopes. The athletic fields require dry, well-drained conditions at all times, so the drainage plan had to be designed so as to keep storm water off of the artificial turf fields. All of the material excavated to bring the site down to final grade was processed and used in the construction of the playing field drainage system.

The former permittees did not have the means to complete the mining or conduct the reclamation as required by the New York State Mined Land Reclamation Law until they were approached by the Frozen Ropes Baseball Company. The new owners had the vision, determination, and mining and construction experience to purchase a mine that was essentially a "reclamation liability" and convert the site to a sports complex.

An honorable mention in the coal category was also presented this year to Vigo Coal Operating Co., Inc., Friendsville Mine, located in Wabash County in Mount Carmel, Illinois.

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IMCC Presents 2011 Minerals Education Awards

The Interstate Mining Compact Commission (IMCC) presented its annual minerals education awards at Oglebay in Wheeling, West Virginia on April 5 during the Annual Awards Banquet held in conjunction with the 2011 Annual Meeting. Begun in 1999, the minerals education awards are presented each year in two categories: the mining awareness educator category and the public outreach category. There were no nominations submitted for the educator category for 2011.

The public outreach award is presented to an industry, environmental, citizen or other group, or to a state government body, that has achieved excellence in one or more of the following categories: provided educational outreach in an innovative manner that increases the level of understanding in the community about mining and its impacts; promoted awareness of environmental stewardship associated with mining through active involvement of citizens; fostered cooperation and partnerships with diverse groups to achieve understanding; enhanced the understanding of issues associated with mining and natural resource development; and/or fostered public education through mine tours, visitor centers, community awareness days, career days, personnel volunteerism in the schools, maintaining adopt-a-school programs or education partnerships, or any other innovative initiative deemed deserving by the awards committee. The winner is presented with an engraved plaque of recognition.

The winner in the public outreach category for 2011 is Alaska Resource Education located in Anchorage, Alaska. Alaska Resource Education (ARE) is a partnership between the Alaska Department of Education and private industry. The non-profit organization focuses on teaching school students and teachers about Alaska's natural resources using their Alaska Resource Kit and Curriculum. The Alaska Resource Kit contains a standards-based, Alaska-specific interdisciplinary set of curriculum, as well as activities and support materials providing K-8 students with information about Alaska's natural resources including minerals, energy, forestry, oil & gas and the state and federal permitting process. The curriculum is also adaptable for grades 9-12. ARE also offers a "Rock & Roll Around Alaska" course for teachers. It is a 500 level, 1 credit course offered through the University of Alaska in various locations throughout the state. The course is designed to give teachers the tools to teach their students about Alaska's natural resources with fun, interactive curriculum activities. ARE's program for students called "Minor Miners" brings students annually to the Alaska Miners Conference to engage in hands-on activities and introduce them to various aspects of the mining industry including mining camp catering, heavy equipment operation, permitting, mineral discovery, and other activities. The program also includes an interview panel where the students can talk with various members of the industry and regulatory personnel from the state and federal government about their jobs. The "Energy Einstein" program brings local students to the Petroleum Club in Anchorage to learn about various energy topics and careers. Students attend a day-long program which explores the fundamentals of energy through ARE's standards-based K-12 curriculum. Alaska Resource Education also arranges tours of industry sites for teachers, and ARE's staff visits schools to lead students in activities on mineral, energy and forest resources.

An honorable mention was also presented this year in the Public Outreach Category to Lignite Energy Council (LEC) in Bismarck, North Dakota for its annual Teacher Education Seminar. LEC has sponsored an annual Teacher Education

Seminar for the past 25 years. The annual 4-day seminar provides teacher participants with a broad understanding of the lignite coal industry and the important role it plays in providing electricity to the region and job opportunities. One day is devoted to touring mining operations, reclamation sites and coal conversion facilities. Tours also include a power plant and the Great Plains Synfuels Plant. Seminar presenters include educators, researchers, lignite industry representatives and government officials. Teachers attending the seminar receive lecture outlines on each presentation, examples of lesson plans, classroom exercises, coal and ash samples, audiovisual materials, and information on the facilities they tour. They also receive resource guides listing publications and audiovisual materials available for energy education.. The seminar is open to grade 3-12 teachers from North and South Dakota, Montana and Minnesota (states which are served by the North Dakota lignite industry). Lodging and meals are provided by the LEC and teachers can receive 2 graduate credits for completion of the course, also paid for by Lignite Energy Council.

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IMCC Comments on MSHA FY 2012 Budget Request

The Interstate Mining Compact Commission (IMCC) recently submitted statements to the Subcommittees on Labor, Health and Human Services, Education and Related Agencies of the House and Senate Appropriations Committees regarding the FY 2012 Budget Request of the Mine Safety and Health Administration (MSHA) within the Department of Labor. IMCC urged the Subcommittees to support full appropriation for grants to states for safety and health training of the nation's miners to the statutorily authorized level of \$10 million in order to fully and effectively carry out their responsibilities under Section 503(a) of the Mine Safety and Health Act of 1977. IMCC expressed concerns that without full funding of the state grants program, the federally required training for miners will suffer. States are currently struggling to maintain effective miner training due to grants not keeping pace with inflation and increased demands for training. This is a particular concern given the enhanced, additional training requirements growing out of the recently enacted MINER Act and MSHA's implementing regulations. IMCC urged the Subcommittees to keep in mind the critical role that states play in providing special assistance to small mine operators in meeting their required training needs.

IMCC Testifies Re. OSM's FY 2012 Budget Request

On April 7, 2011, Bradley C. Lambert, Deputy Director of the Virginia Department of Mines, Minerals and Energy, testified before the House Energy and Mineral Resources Subcommittee on behalf of the Interstate Mining Compact Commission (IMCC) regarding the Fiscal Year (FY) 2012 budget request for the Office of Surface Mining (OSM). In its proposed budget, OSM is requesting \$60.3 million to fund Title V grants, a reduction of \$11 million from FY 2010 and 2011 levels. IMCC testimony voiced strong opposition to these cuts on the grounds that OSM is attempting to reverse progress made by Congress over the past three years in adequately funding these programs, stripping them of funds that the states are still in the process of using to make needed program improvements. IMCC made the case that consistent federal funding will do much to stimulate support for the programs by state legislatures, and stressed that a 15% cut in federal funding generally translates into an additional 15% cut for overall program funding since many states can only match what they receive in federal money. IMCC also noted that OSM's solution of increasing user fees to "eliminate a de facto subsidy of the coal industry" shows a lack of understanding of the realities associated with establishing or enhancing user fees, and was rebutted by IMCC's polling of the states. The polling suggested that most member states would find this task to be impossible, especially within the time frame of only one year. In addition, OSM proposed a cut of \$6.8 million in discretionary spending for the Title IV abandoned mine land (AML) program, as well as a \$184 million cut in mandatory AML spending pursuant to a legislative proposal to eliminate all AML funding for certified states and tribes. IMCC adamantly opposed this reduction and asked that the Subcommittee restore the full mandatory funding amount of \$498 million because it directly contradicts 10 years of comprehensive restructuring of the AML program passed by Congress in 2006, as well as the Administration's goals concerning both jobs and environmental protection. IMCC also urged Congress to approve continued funding for the AML emergency program, which OSM's budget would completely eliminate, since this funding allows the states to address the unanticipated AML emergencies that inevitably occur each year.

IMCC testimony also included requests that the committee include language that would allow the use of AML funds for any required non-Federal share of the cost of projects by the Federal government for acid mine drainage (AMD) treatment or abatement, funding for OSM's training program, funding for Technical Innovative and Professional Services (TIPS) training (a program that benefits states by providing critical technical assistance), and funding for Watershed Cooperative Agreements.

IMCC presented similar testimony at a hearing by the House Interior Appropriations Subcommittee on April 14.

Senate and House Bills Set Limits on EPA's Coal Permit Policy in Appalachia

Kentucky Senators Mitch McConnell and Rand Paul, were recently joined by Environment and Public Works Committee ranking member James Inhofe (R-OK) in sponsoring S. 468, the "Mine Jobs Protection Act." The bill would set time limits by which the Environmental Protection Agency (EPA) must object to and modify coal permits under Section 404(C) of the Clean Water Act, prevent the agency from vetoing existing permits, and clarify the ultimate federal authority of the Army Corps of Engineers. The bill also bolsters state authority in the permit process by requiring state certification for Section 404(Q) Aquatic Resources of National Importance designations. A companion bill, H.R. 960, was recently introduced in the House by Representatives Hal Rogers (R-KY) and Shelley Moore Capito (R-WV).

USGS Report Documents Increase in 2010 Value of U.S. Mineral Production

The value added to America's GDP by major industries that consume mineral materials stood at nearly \$2.1 trillion in 2010, up 11 percent from the estimated \$1.9 trillion reported in 2009, and representing about 14 percent of the U.S. Gross Domestic Product (GDP), according to the U.S. Geological Survey's (USGS) recently released annual report, *Mineral Commodity Summaries 2011*. The report also documents America's growing dependence on imported minerals. The value of nonfuel minerals in the U.S. was \$64 billion in 2010, up 9 percent, according to the USGS Mineral Information Center. "During the past year, we began to see increases in domestic mineral production, after significant declines in 2009," said Kathleen Johnson, USGS mineral resources program coordinator. The increase is attributed to the recovering economy and related increased demand largely for metals. The agency noted that the nation's reliance on foreign sources of minerals continued to climb, and that the U.S. now relies on imports for more than 50 percent of its domestic consumption of 43 mineral commodities and is 100 percent import-reliant on 18 commodities.

Safety and Health Legislation Introduced in the Senate

Democratic Senators Jay Rockefeller and Joe Manchin (WV), Tom Harkin (IA) and Patty Murray (WA) recently introduced legislation that would make significant changes to mine safety laws and regulations, as well as expand some of the bill's features to workplaces regulated by the Occupational Safety and Health Act. The measure is identical to the bill Senator Rockefeller introduced last year. The measure also would impose new requirements on MSHA, including an independent investigation of the most serious accidents; certification of safety qualifications for foremen, superintendents, and others if the state-based process is inadequate; distribution of safety inspections across all shifts and days of the week; greater coordination in investigations with the Department of Justice; improvements in mine safety records database; and development of a strategic plan to improve mine safety. The bill gives MSHA additional authority to order training and to seek injunctions, redefines "significant and substantial violation," and gives MSHA expanded authority to subpoena documents and testimony. Criminal and civil penalties would also be expanded under the bill, and MSHA would have the authority to withdraw miners from a mine that is more than 180 days in arrears for fully adjudicated penalties. The "pattern of violations" process would be changed to include remediation orders that would get "safety performance back on track." The measure also would require greater rock dusting, mandate new monitoring technology to improve rock dust measurement and require the study and subsequent use of continuous atmospheric monitoring systems. Pre-shift reviews of mine conditions and communications also would be required.

Obama Acknowledges Need for Regulatory Reform

President Obama recently issued an executive order pledging regulatory reform and greater transparency in the regulatory process. The order, "Improving Regulation and Regulatory Review," is directed at identifying and reducing regulations that impede economic growth and job creation while "protecting the health, safety, and rights" of all Americans. It places special emphasis on the impact of federal regulation on small businesses and directs federal agencies "to do more to account for – and reduce – burdens regulations may place on small businesses," said the president. It calls for a government-wide review of current federal rules and regulations to identify those that "stifle job creation" and economic growth. The result, said the president, will "help bring order" to a patchwork of overlapping rules and create a regulatory framework to "protect our safety, health and environment while promoting economic growth." Congress is looking to reinforce these regulatory reforms through a series of oversight hearings that are already in the planning stages.

IMCC Adopts Resolution Re. AML Funding for Certified and Uncertified States

The Interstate Mining Compact Commission (IMCC) adopted a resolution on March 10, 2011 opposing the legislative proposal terminating funding for certified states and altering the receipt of mandatory abandoned mine land (AML) funding for non-certified states contained in the Fiscal Year (FY) 2012 budget proposal for the Office of Surface Mining Reclamation and Enforcement (OSMRE), and supporting the AML funding mechanism contained in current law. IMCC's resolution explains that under SMCRA, Title IV establishes a reclamation fee on each ton of coal mined in the United States to pay for AML reclamation. Title IV also mandates that fifty percent of the reclamation fees collected annually are designated as state share funds to be returned to the states from which coal was mined to pay for reclamation projects pursuant to programs administered by the states. Title IV also mandates that a minimum level of funding should be provided to ensure effective state implementation. In 2006, Congress enacted amendments to SMCRA to address, among other things, continued collection of AML fees and funding for state programs to address existing and future AML reclamation. The 2006 Amendments established new, strict criteria that ensure states expend funds on high priority AML sites. IMCC states that the proposed 2012 budget for OSMRE would disregard the state-federal partnership established under SMCRA and renege on the funding formula under the 2006 Amendments by, among other things, eliminating mandatory funding for states who have certified the completion of their coal reclamation work and adjusting the mechanism by which non-certified states receive their mandatory funding through a competitive bidding process. The resolution asserts that if statutory changes are approved by Congress as suggested by the proposed FY 2012 budget for OSM, reclamation of AML within certified states would halt; reclamation of AML in all states would be jeopardized; employment of contractors, suppliers, technicians and others currently engaged in the reclamation of AML would be endangered; the cleanup of polluted lands and waters across the United States would be threatened; minimum program state funding would be usurped; the AML water supply replacement program would be terminated, leaving coalfield citizens without potable water; and the intent of Congress as contained in the 2006 Amendments to SMCRA would be undermined.
