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Gelnett, Wanda B.

From: Allen, William (DEP) [wallen@state.pa.us]
Sent: Tuesday, February 05, 2008 1:27 PM
To: Tate, Michele
Cc: Simeone, Christina; Morrison, Richard
Subject: ANFR Comments from the MRAB

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INDEPENDENT REGULATORY
REVENUE COMMISSION

The attached document was prepared from the preliminary meeting minutes from the January 10 MRAB meeting. The Department has taken these comments on the ANFR into account. Some of the comments from PennFuture refer to these comments made at the MRAB meeting. Please share these with IRRC.

Thank you.

**Comments from the Mining and Reclamation Advisory Board (Board) Meeting
January 10, 2008
10:00 a.m.
Rachel Carson State Office Building
Delaware Room, 16th Floor
Harrisburg, Pennsylvania**

ADVANCE NOTICE OF FINAL RULEMAKING – RECLAMATION FEE

The Department of Environmental Protection (PADEP) provided the Board with an overview of the Advanced Notice of Final Rulemaking (ANFR) pertaining to the funding of the Alternate Bonding System (ABS) Legacy Sites. In anticipation of soliciting comments and advice from the Board, each member and alternate member received a copy of the ANFR prior to the meeting.

The MRAB expressed several concerns and sought changes to the ANFR. Members of the MRAB raised a concern regarding use of the reclamation fee money. One concern was that the rulemaking did not do enough to protect the treatment funds from being utilized by the government for other purposes. They thought the regulation needed to do more to protect the money. They expressed their desire to see the regulation amended to specify that the ABS Legacy account will become actuarially sound when the money in it, together with the money in the Reclamation Fee O&M account, will generate enough interest to pay the treatment costs in perpetuity and the money will all be placed in the ABS Legacy account. The MRAB also unanimously passed a motion recommending PADEP proceed with the final rulemaking on the conditions:

- The provision that provides for a minimum \$50.00 reclamation fee be removed.
- The regulation be amended to specifically include language that if, instead of the reclamation fee, an alternative source of funding to adequately fund the reclamation fee O&M account is established, then the \$100.00 reclamation fee will not be adjusted up or continue to be collected.
- The provision that authorizes PADEP to transfer money from the Reclamation Fee O&M account into the ABS Legacy account be modified to limit the PADEP's authority to the transfer of excess funds.