

TESTIMONY OF

J. SCOTT ROBERTS
DEPUTY SECRETARY FOR
MINERAL RESOURCES MANAGEMENT
DEPARTMENT OF ENVIRONMENTAL PROTECTION
COMMONWEALTH OF PENNSYLVANIA

BEFORE THE

U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON RESOURCES
SUBCOMMITTEE ON ENERGY AND MINERAL RESOURCES

ON

AMEND THE SURFACE MINING AND CONTROL ACT OF 1977
AND
REAUTHORIZE AND REFORM
THE
ABANDONED MINE RECLAMATION PROGRAM

MARCH 30, 2004

My name is Jay Scott Roberts and I am Deputy Secretary of Mineral Resource Management for Pennsylvania's Department of Environmental Protection. I am speaking today on behalf of Pennsylvania Governor Edward G. Rendell. The Governor wishes to thank the committee for providing the Commonwealth the opportunity to present its views on the reauthorization of the Surface Mine Control and Reclamations Act's (SMCRA) fee that supports abandoned mine land (AML) reclamation.

Sustainable Development is a modern day buzzword for a concept that Congress used in passing SMCRA in 1977. In a mining context, Sustainable Development can mean that mine land is reclaimed to allow other resource potentials of the area. It also means that communities, which prospered while supporting the mineral economy, are left with the ability to transition to other economies.

Before 1977 Sustainable Development was a foreign concept to the nation's mining industry. That fact is reflected in Congress' finding that the surface mine operations of the time, and presumably before, *'result in disturbance of surface areas that burden and adversely affect commerce and the public welfare by destroying the utility of land for commercial, industrial, residential, recreational, agricultural, and forestry purposes'* [30 U.S.C. 1201, Sec 101(c)] and *'coal mining operations affect interstate commerce'* [30 U.S.C. 1201, Sec 101(j)].

To its credit, and this is a point ignored by critics, America's coal mining industry has embraced the concept of sustainable development. When a modern mine is completed the land is ready for new uses and the community has the opportunity to transition into new economies.

But pre-1977 miners had no such forward vision. Congress also recognized this by finding, again in 1977, that *'there are a substantial number of acres of land throughout major regions of the United States disturbed by surface and underground coal on which little or no reclamation was conducted, and the impacts from these unreclaimed lands impose social and economic costs on residents in nearby and adjoining areas as well as continuing to impair environmental quality'* [30 U.S.C. 1201, Sec 101(h)].

Pennsylvania was blessed with abundant natural wealth – endless forests, good soils, plenty of clean water, and minerals. Chief among those minerals was coal. Although having only the 9th largest original reserves of any state in the nation (but Pennsylvania accounted for 95% of the worlds known anthracite reserves), Pennsylvania’s coal was the basis for much of the nation’s historic production. Pennsylvania anthracite fired the boilers of transatlantic steamships and Pennsylvania bituminous fired the blast furnaces of Carnegie’s steel mills. The production of Pennsylvania’s mines was staggering. In 1917 the production of Anthracite coal, found in only 5 of our 67 counties, peaked at 117,000,000 tons. The same year production of Bituminous coal was 171,000,000 tons; a combined total that year of 288,000,000 tons of coal. Pennsylvania miners produced nearly 16 billion tons of coal before Congress made it’s finding that uncontrolled mining *‘burden and adversely affect commerce and the public welfare’*.

Although downplayed because of the general good times created by a booming coal economy, the price of that production was high. In 1910, the U. S. Army Corps of Engineers concluded that the rapid corrosion on the Monongahela River of steel river locks and barge hulls was the result of acid from abandoned mines. By the 1920’s the river intakes of the water supplies for population centers like McKeesport, Greensburg, Latrobe, Johnstown, and Altoona were lost to mine drainage and were being replaced with water piped from reservoirs built high in the mountains. Sediment loading at the Philadelphia’s Schuylkill River water works that, in 1948, the legislature authorized the construction of a series of desilting basins on the river. Today, those basins continue to function and the state continues to operate the dredges necessary to maintain their capacity.

Certainly Pennsylvania benefited from all that coal being mined but, like most Appalachian states, the coal royalties went to the private coal owners. The communities’ costs of hosting the industry were paid from the wealth created in the community. But, in a society that did not plan for a sustainable future, when the coal runs out, the mines close, the jobs and the wealth disappear, and all that’s left are highwalls, spoil piles, pits full of water, mountains of waste coal, open shafts, orange streams, destroyed water supplies, inferno-like mine fires, and the clear and present danger that without warning homes and businesses will collapse from mine subsidence. Unable to effectively compete for new economic opportunities, it’s young people move way, and the community slowly declines.

Today Pennsylvania is here to engage in the debate on re-authorization of the fees collected under SMCRA to reclaim abandoned mine lands. No other state has as much at stake as Pennsylvania. It is the Commonwealth's whose '*commerce and public welfare*' is most great compromised by abandoned mine lands. Our motivation to engage this debate is not greedy desire nor are we before you as beggars. The Commonwealth has a more than 50-year legacy of action in dealing with our AML problems. Our citizens stepped to the plate in 1968 with the \$200 Million 'Operation Scarlift' bond issue. They again put their money where their mouth is with 1999's \$500 million Growing Greener program. Presently, Governor Rendell is pushing that another bond issue, called Growing Greener II, be placed on the ballot in November. If the voters agree, then they will put another \$180 million towards AML reclamation in our state. With these funds, and the nearly \$600 million the state has received under state grants from SMCRA's funded with the AML fee, much has been accomplished. But much remains yet to do. The job is simply not finished.

The National Abandoned Mine Land Inventory lists for Pennsylvania over \$1 Billion of Priority 1 and Priority 2 non-general welfare work. These dollar figures are for construction alone. They do not account for administrative nor design/development expenses and, since they were generated in the 1980's, were never adjusted for inflation. Using the \$1 Billion inventory amount and present state-grant levels simple arithmetic suggests it will take 40 years for just the P1/P2 non-general welfare work.

The state recognizes the burden the fee places on mine operators around the nation and tries to be a good steward of the funds we receive from them. To that end, we have developed programs designed to encourage reclamation by the modern industry as it seeks to recover resources left by past practices. This is known as re-mining. We also partner with our business communities, local governments, property owners, and civic organizations to find ways to reduce costs or leverage AML funds to the greatest extent possible. In the Commonwealth our citizens are choosing to be proud of their industrial heritage, not to be victims of it. Across the state they are rolling up their sleeves and getting to work. But they need help. Pennsylvania's Congressional delegation has stepped to the plate. They know SMCRA needs reauthorized and they are working hard to make sure that the political realities driving the reauthorization start with abandoned mine reclamation.

There are several bills before this committee and several bills before the Senate. Governor Rendell and Pennsylvania are solidly supporting H. R. 3778 primarily introduced by Congressman Peterson and co-sponsored by all 16 members of our Congressional Delegation. It is a companion bill to S. 2049 introduced in the Senate by Senator Specter and co-sponsored by Senator Santorum. This bill has the support of the Bush administration and was presented earlier today by OSM Director Jarrett. I would direct your attention to the fact that Governor Rendell, a Democrat, stood shoulder-to-shoulder with Interior Secretary Gale Norton when Congressman Peterson announced this bill as testimony to the bi-partisan support the bill has in Pennsylvania.

The issues surrounding re-authorization are complicated and their solutions will likely be complex. I believe the three toughest are:

- Distribution of collected fees,
- Transfers to the United Mine Workers of America's health care plans, and
- Handling the unappropriated state share balances accrued under the existing law.

Pennsylvania prefers a future distribution of collected fees that maximizes completion of Priority 1 and Priority 2 AML sites. H. R. 3778 accomplishes this by replacing the present state-share/federal-share system with allocations based upon a given state's percentage of pre-SMCRA coal production. This approach directs the resources most efficiently to the problems while setting future distributions upon a solid foundation. Systems using a state-share system leave future distributions at risk of production declines from resource depletion or market completion.

H. R. 3778 also offers a responsible balance between reclaiming abandoned mine lands and fulfilling Federal promises made to retired mine workers. It is a compromise and is not a perfect solution. I fully recognize that H. R. 3778 does not commit to providing the full costs of the Combined Benefits Fund, nor does it include either the Reach-Back or Super Reach-Back categories of retirees, nor does it provide relief for certain coal companies struggling with contractual obligations left them by now defunct companies. These are serious issues that, if Federal commitments were made, then they are that America needs to live up to.

Pennsylvania believes strongly that government, regardless of whether it is a township, state, or the federal government, needs to meet its commitments. We support the payment of fees collected and allocated to the various states under the present law but never appropriated for payment. To the extent that those states have completed their P1 and P2 inventories and the states have certified under the provisions of SMCRA they should have the freedom to choose what to do with the monies. This provides those states with an opportunity to reclaim their abandoned non-coal mines that affect their communities and economies the same as coal AML does in Pennsylvania. That is an opportunity that states with large inventories and long paths to reach certified status will not enjoy.

H.R. 3778 also contains provisions aimed to reduce costs, eliminate paperwork, and encourage others to do the reclamation work at no or reduced costs to the fee payers. It eliminates the lien requirements that carry significant manpower costs but offer little benefit. It also provides that fees collected can be used to cover the bond costs for the previously abandoned portions of remaining sites. In a time when bonds are difficult to purchase this promises to significantly reduce the modern industries costs for reclaiming the past. Finally, and perhaps most importantly, it gives the Secretary of the Interior the flexibility, through the promulgation of regulations, to create other incentives to maximize bang for the buck and create levers to bring other resources to bear on the problem.

For Pennsylvania this debate is over giving our coal communities a level playing field as they compete for economic opportunities with communities across the nation, and indeed, around the world. AML does adversely affect our commerce and our public welfare. Our citizens have invested their own time and money in this effort. They have also reaped the benefits of SMCRA's fees collected for AML reclamation. But while the job is completed in some states, and close to being completed in others, under the current allocation formula it will be decades before it is done in the Commonwealth. By passing H.R. 3778 Congress can help us to get the job done in years, not generations.

Thank you.