

United States Department of the Interior

Reclamation and Enforcement WASHINGTON, D.C. 20240

January 18, 1991

Memorandum

To:

Field Office Directors

From:

Nina Rose Hatfield

Assistant Deputy Director

Operations and Technical Services

Subject:

Bond Committee Recommendations

I have attached a copy of the recommendations and report by the Ad Hoc Bond Committee on Alternative Bonding Systems (ABS). Representatives of the Office of Surface Mining (OSM) and the Office of the Solicitor conducted the review and developed the report. In addition, the Committee obtained input about appropriate evaluation considerations from a national actuarial firm with experience in the development of an ABS.

This report identifies considerations that should be addressed in determining whether the ABS is sufficient to meet the requirements of Section 509(c) of the Surface Mining Control and Reclamation Act (SMCRA) and 30 CFR 800.11. These considerations include looking at the sources of funding, the amount of existing and potential liabilities, and the analysis of risk to which the ABS may be subjected.

It is important to affirm, as we proceed to implement the concepts contained in the report and to work with the States in assuring the sufficiency of their ABS, that OSM believes the concept of alternative bonding systems is desirable and generally a less expensive option to conventional bonding or to supplement conventional bonding. Our efforts should, therefore, be concentrated on positive approaches to meeting the program requirements for an ABS.

The Director is sending a copy of the report to the States for their information. A workshop is being planned for February 1991 to discuss this document and necessary follow-up actions.

On January 28, 1991, at 12:30 PM, John Mosesso will lead a workshop to discuss the concepts embodied in this document with Field Office and Service Center representatives who evaluate the sufficiency of an ABS or with amendments relating to an ABS. The workshop will be held in the Director's Conference Room. Please make arrangements to attend or send your representatives.

Attachment



United States Department of the Interior

OFFICE OF SURFACE MINING Reclamation and Enforcement WASHINGTON, D.C. 20240



DEC 41990

Memorandum

To:

Director

Through:

Deputy Director Departions and Technical Services

From:

Ad Hoc Bonding Committee/Alternative Systems

Subject:

Secretarial MBO on Alternative Bonding Systems

OSM in conjunction with the Office of the Solicitor conducted a review of alternative bonding systems (ABS's). An analysis of the review has been prepared and is attached hereto. The ad hoc committee responsible for the analysis, has concerns about the ability of existing ABS's to meet the requirements of Section 509 of SMCRA and 30 CFR 800.11 (e). The committee believes that OSM needs to maintain a consistent and continuous vigil over ABS's and their solvency. The committee also believes that there is a need to strengthen the enforcement of existing requirements for ABS's in order to assure their solvency for current and future reclamation. Therefore, considerations for evaluating the sufficiency of any ABS to meet successfully the existing requirements contained in SMCRA and the regulations have been prepared as part of the analysis. To this end, the attached document includes a review of the needed considerations for OSM to understand solvency, analyze ABS's, and recognize various ways of meeting the solvency requirement.

To determine what revisions to existing and proposed ABS's may be needed for them to meet the requirements of SMCRA and the OSM regulations, the committee recommends the following:

- o That the evaluation considerations be incorporated into OSM Directive REG-8 which pertains to state program oversight. This would provide agency-wide consistency in the way ABS solvency is analyzed and evaluated.
- o That all existing and proposed ABS's be fully reviewed, using the attached considerations, to determine their sufficiency in meeting the requirements contained in 30 CFR 800.11(e). We suggest that the Director in consultation with the Field Office Directors establish firm and expedient dates for the completion of these reviews and any necessary follow-up actions.
- o That the considerations be used to analyze, understand and evaluate all future state program amendments that pertain to ABS's.

- o That rulemaking be initiated with respect to clarifying responsibilities in the following two areas of concern:
 - In the event an ABS terminates, the ABS must remain liable for the generation of income, or an alternate system established, to satisfy existing forfeitures and future liability of the sites covered by the ABS.
 - In the event of a Section 733 action, the ABS fund and all supporting legal documents, such as indemnity agreements, must be transferable to the United States.
- o That the committee brief the Field Office Directors and States, in a workshop setting, to assure a thorough and consistent understanding of the considerations presented here.
- o In keeping with the general requirement that sufficient funds for reclamation be available, that OSM review the adequacy of conventional bonding systems and the need for additional guidance or evaluation criteria.

The review and attached analysis included the solicitation of ABS information from the six states currently conducting alternative bonding systems and consultation with an internationally recognized actuarial firm (see Attachment 2). Information and recommendations from these sources have been incorporated into the considerations.

Upon your approval of these recommendations, the ad hoc committee will proceed appropriately as specified above.

Approved

Attachments

Signature

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