



NATIONAL ASSOCIATION OF STATE LAND RECLAIMATIONISTS

<http://www.crc.siu.edu/naslr.htm>

SPRING 2011

PRESIDENT'S COLUMN

Joe Hager

West Virginia Department of Environmental Protection

Planning for the 39th Annual NASLR Conference is proceeding full speed ahead as inquiries from states, colleges and private sector interests are pouring in. This year's conference, which is to be held at the Glade Springs Resort near Daniels, West Virginia, will concentrate on the complex issues associated with minimization of mining impacts to surface and groundwater systems. A localized flavor with emphasis on projects made possible through coal extraction should provide insights to the scientific processes that are utilized to effectively protect the environment. These practices can readily be implemented into reclamation opportunities that develop through many forms of mineral recovery.

Don't forget that activities are also being planned for spouses and significant others during the conference. You may register your spouse for \$100 and this includes the spouse activities, field trip, and banquet attendance. For more information regarding the conference you may contact any member of NASLR. Registration Forms can be found at the end of this newsletter.

We've retained some great speakers for this year's conference. Here is a partial list of those willing to share their wealth of information and professional expertise with us:

Angela Greene, West Virginia Natural Resources Conservation Service
Tom Galya, Ph.D, U. S. Office of Surface Mining
Jeff Skousen, Ph.D, West Virginia University
Mike Hatten, U. S. Army Corps of Engineers
Chris White, Appalachian Streams Restoration
Randy Kelley, West Virginia DNR, Division of Wildlife
Curtis Taylor, West Virginia DNR, Division of Wildlife
Christi Johnson Hughes, U.S. Fish and Wildlife Service
Mark Stanley, Consol Energy
Michael W. Smith, Pennsylvania Department of Environmental Protection

Though you may not yet be thinking of making travel plans for the meeting, please note that a limited number of hotel rooms can be reserved at the special conference rate of \$82 per night plus taxes and fees. **At present, one half of the guaranteed rooms have been booked.** Please reserve your room now as reservations may be canceled within 7 days of the event without penalty.

We look forward to seeing you at Glade Springs Resort in September!

The next newsletter will feature articles from Florida, Louisiana, Maryland, Tennessee, Mississippi and New York. Deadline for copy to be received at the Coal Research Center office is July 31, 2011.

39th ANNUAL CONFERENCE OF THE NATIONAL ASSOCIATION OF STATE LAND RECLAIMATIONISTS

SEPTEMBER 25th-28th, 2011

Land Stewardship - Protecting Tomorrow's Waterways Through Responsible Reclamation Today

Lodging & Travel

This year's conference will be held at the Resort at Glade Springs. Resort information and amenities can be found at the following link: <http://www.gladesprings.com/>. NASLR has obtained a special rate for attendees of \$82 per night plus taxes and fees. A LIMITED NUMBER OF ROOMS HAS BEEN RESERVED FOR NASLR ATTENDEES. Anyone planning to attend this year's conference is encouraged to make their reservations as soon as possible as **one half of the guaranteed rooms have been booked for this year's event.** There is no guarantee that additional rooms will be available in excess of the guaranteed quantity. To ensure that you receive the NASLR package, be certain to note that you are reserving

your room for the NASLR Conference and do so as soon as possible. Room reservations can be cancelled as late as seven days prior to the conference without penalty.



Glade Springs Resort Clubhouse

Travel directions to Glade Springs:

From I-64 West: Take exit 125 (Beaver, Airport Road Exit) Turn left onto Airport Road Route 307 West. Go 1.7 miles to intersection and turn left onto Route 19 South. Go 2 miles and The Resort at Glade Springs will be on the left.

From I-77 North: Take exit 28 (Ghent Exit), at the end of the exit ramp turn right, which will bring you to Route 19. Turn left onto Route 19 North. Go 10 miles and The Resort at Glade Springs will be on the right.

From I-77 South to I-64 East: Take exit 125A (Beaver Exit) into Route 307 West. Go 2 miles to intersection and turn left onto Route 19 South. Go 2.8 miles and The Resort at Glade Springs will be on the left.

From Yeager Airport in Charleston, West Virginia: Follow directions for I-77 South to I-64 East.

From Beckley Airport: Coming out of the airport is Route 307 West. Go 3 miles to intersection and turn left onto Route 19 South. Go 2.8 miles and The Resort at Glade Springs will be on the left.

Registration & Information

Keep abreast of conference developments by visiting the NASLR website at www.crc.siu.edu/naslr.htm. Please register as quickly as possible so that we can finalize our head count for the banquet and field trip. Forms can be found online or at the back of this newsletter.

Sponsor/Exhibitor Booth

Sponsorships are available in three categories:

Gold – \$750

Includes a one-year NASLR corporate membership; one individual conference registration; premier furnished exhibit location for three days; priority corporate sponsor seating at the conference.

Silver – \$500

Includes a one-year NASLR corporate membership; furnished exhibit for three days.

Bronze – \$250

Includes a furnished exhibit location for three days.

TENTATIVE CONFERENCE SCHEDULE

Sunday

- 3:00 - 5:00 Conference Check-in
- 5:00 - 9:00 Informal Hospitality Gathering

Monday

- 7:00 - 8:30 Breakfast
- 8:30 - 9:00 Opening Remarks
- 9:00 - 9:45 Session I
- 9:45 - 10:30 Session II
- 10:30 - 10:45 Break
- 10:45 - 11:30 Session III
- 11:30 - 12:15 Session IV
- 12:15 - 1:15 Lunch
- 1:15 - 2:00 Session V
- 2:00 - 2:45 Session VI
- 2:45 - 3:00 Break
- 3:00 - 3:45 Session VII
- 5:00 - 9:00 Informal Hospitality Suite

Tuesday

7:00 - 8:30 Breakfast
8:30 - 8:45 Opening Remarks
8:45 - 9:30 Session VIII
9:30 - 10:15 Session IX
10:15 - 10:30 Break
10:30 - 11:15 Session X
11:15 - 12:00 Session XI
12:00 - 1:15 Lunch
1:15 - 3:15 NASLR Business Meeting
6:00 - 7:00 Awards Banquet Reception
7:00 - 9:00 Awards Banquet
9:00 - 1:00 Informal Hospitality Suite

Wednesday

7:00 - 8:30 Breakfast
8:30 - 4:30 Field Trip

In other news, the West Virginia Legislature passed a bill that increased permitting fees significantly across the board; the additional revenue generated by the fee bill will go toward matching funding the state program receives.

One of the largest hurdles facing the regulatory program in West Virginia is the fact that nearly fifty per cent of the staff will be retirement eligible over the next five years. The amount of historical knowledge and field expertise that is projected to be lost is a major concern for the agency.

Several veteran NASLR members are diligently working on planning and preparation of the annual conference that is scheduled for September 25-28, 2011 at the Glade Springs Resort. There has been considerable interest from various associates and partners regarding this year's conference, including representatives from land owner associations, coal companies, watershed organizations, consulting firms, and academic institutions. Anyone interested in attending this year's conference is encouraged to get their registration in and to reserve their rooms as soon as possible. The Division of Mining and Reclamation staff eagerly looks forward to seeing each of you at this year's conference.

Oklahoma

Darrell Shults

Oklahoma Department of Mines

STATE NEWS/ACTIVITIES

West Virginia

Joe Hager

WV Department of Environmental Protection

One thing that has been consistent within West Virginia this past year is the uncertainty about the future of what has traditionally been accepted as environmentally sound mining practices.

Continued scrutiny of surface coal mining in West Virginia has prompted the Department of Environmental Protection to implement WET testing where intermittent and perennial streams may be affected by mineral extraction activities. WET testing refers to the aggregate toxic effect to aquatic organisms from all pollutants contained in a facility's wastewater (effluent) discharge.

At the same time, the Office of Surface Mining has been evaluating water quality and benthic ecosystems downstream of valley fills that have been reclaimed for several years; these surveys/studies will quantify and qualify the cumulative impacts, if any, to recipient eco-systems.

To further protect the waters of the State, West Virginia is continuing to adjust their selenium discharge parameters. Operations that identify selenium in their overburden or in baseline water data must comply with a maximum daily limit of 8.2 micrograms and a monthly average of 4.7 micrograms for the associated discharge points.

Currently the Oklahoma Department of Mines (ODM) is in discussions with the Office of Surface Mining about *Approximate Original Contour* (AOC) issues in Oklahoma. The definition of AOC is easy to state, but interpretations are varied, and as in most things, the devil is in the details.

Approximate Original Contour (AOC) is defined to mean that the surface configuration achieved by backfilling and grading of the mined area should closely resemble the general surface configuration of the land "prior to mining" and blend into and complement the drainage pattern of the surrounding terrain with all highwalls, spoil piles, and coal refuse piles eliminated. In the original Senate Report No. 28 from Senate Bill S. 7 (1974), Congress was primarily concerned with land configuration and not elevation. Specifically, House Report No. 95-218 indicated that the principle of AOC was based on, among other things, blending the site into the surrounding terrain to the greatest degree possible.

Issues surrounding AOC have been debated in Congress, contested by industry, and ruled on from the judicial bench since the regulation's inception. The key question to be answered by the Regulatory Authority in our current AOC dilemma is, "What exactly does *closely resemble the (original) general surface configuration* mean?" And, "What does *prior to mining* mean?" Prior to the current mining operation? Prior to any type of mining ever? What does it mean to achieve AOC on sites that were mined in the 1920s or 1930s and left unreclaimed?

These questions have become more important as mining in Oklahoma moves into populated areas where the available permit acreage is limited, where old spoils and highwalls remain, and the "easy" coal is gone. The applicant needs clear answers from the regulatory authority on what is allowable *prior* to investing large sums of money in land leasing and permit preparation.

Historically, four significant cases have occurred with the Office of Surface Mining Reclamation and Enforcement (OSM) that affected AOC interpretation and slope determination. The following table summarizes the decisions rendered:

Case Summaries	Pre-Mine Slopes (%)	Post-Mine Slopes (%)	% Increase	Litigated Resolution of Slopes
¹ FCCM v. OSM	0.5	6.0	5.5	Accepted in settlement
² Pullen v. OSM	3?	>12	9 est.	Accepted by court
³ Roseti v. OSM	8-11	18-19	10	Accepted by court
⁴ Pacific Coast Coal v. OSM	≤10	33.33	>23.33	Rejected by court

The Oklahoma Department of Mines has proposed using these four AOC cases to justify a *proposed Program Amendment* and regulation additions to the performance standards of the Oklahoma Administrative Code Title 460:

Proposed - OAC 460:20-43-38(1)

Pre-mine slopes of $0 \leq 8\%$ can be increased no more than 10% ^(1,2). Pre-mine slopes between $8 \leq 18\%$ can be increased no more than 15% ^(3,4). Pre-mine slopes between $18 \leq 28\%$ can be increased to a maximum slope of 33.33% (3:1 grade). Pre-mine slopes $>28\%$ can be increased up to 5% . These standards include the slopes for impoundment embankments up to a maximum grade of 3:1 as well as disturbed terrain. Previously mined areas or areas deemed suitable for reforestation could be exempt from these standards if justified in writing by the applicant and approved by ODM.

If, for example, a permit had a 100-acre excavation area with four 25-acre tracts of 5, 15, 25, and 35% pre-mine slopes; then the maximum post-mine slopes allowed would include four 25-acre tracts of not more than 15, 30, 33.33, and 40% respectively.

OSM has not yet reviewed this proposed program amendment. We will be working with them in the next few months to craft language which will meet both OSM's interpretation of the meaning of AOC and ODM's permitting and enforcement requirements.

ODM hopes to have new regulations concerning AOC in place by July 2012.

Virginia

Jon Lawson

Virginia Department of Mines, Minerals, & Energy
Division of Mined Land Reclamation

Virginia Coalfields Hosts Two Arbor Day Events

Continuing the science and outreach of the Forestry Reclamation Approach (FRA) and reforestation of mined lands, two previously bond-released sites in Southwest Virginia are now supporting a total of 2,000 hardwood tree seedlings. The sites, in Buchanan County and Dickenson County, were prepared in order to loosen soil compaction and remove competitive vegetation prior to planting. The process of ripping the soil allows for easier planting and gives the seedlings roots ample space to expand. The events helped to promote the goals of the Appalachian Regional Reforestation Initiative (ARRI) and saw over 200 volunteers plant trees.

The student-run Energy and Mineral Law Society (EMLS) at the Appalachian School of Law (ASL) hosted their second annual Arbor Day event on a reclaimed surface mine site that is now part of the Buchanan County Industrial Development Authority's Southern Gap project. Nearly 30 students volunteered their time and services on Saturday, April 3rd. They were aided by 25 representatives from the Breaks District of the Sequoyah Council Boy Scouts of America. Virginia-based coal producer Alpha Natural Resources, the Virginia Department of Mines, Minerals, & Energy (DMME), and Virginia Department of Forestry (DOF) provided site preparation and equipment for the event. To provide a mix of commercially valuable hardwoods and wildlife species, a tree species mix that included sugar maple, hazelnut, and black oak was planted on-site. Blight-resistant American Chestnut backcrosses, supplied by The American Chestnut Foundation, were also planted.



“I would like to extend a special thanks to the sponsors of this event,” said Will Estes, president of ASL’s EMLS chapter. “Without them, we simply would not be able to pull this event together. My favorite part of the event is being able to raise awareness of the American Chestnut, and its importance to this region’s heritage.”

The common denominators between the two Arbor Day events seem to be the American Chestnut plantings and tremendous help and involvement from Alpha Natural Resources. In Dickenson County, Virginia’s Department of Mines, Minerals, and Energy hosted their 7th Annual Arbor Day event. Upon arrival of the 130 sixth-grade students from three surrounding elementary schools, the festivities for the Arbor Day themed “Putting Down Roots for the Future” began with opening remarks from Department officials, industry representatives, and distinguished researchers from Virginia Tech. The event was held on reclaimed mined land that now serves as the Coalfield Agricultural Marketing and Education Center headquarters. The new facilities and surrounding reclaimed land was the backdrop on a gorgeous early spring day.

DMME Deputy Director Butch Lambert welcomed the students to the site encouraging them, “Treat today not only as a day away from the classroom or a break from exams, but also as a chance to do something that benefits our generation and generations to come.”

Following the opening remarks, the time came to recognize industry leaders that had taken it upon themselves to promote reforestation within Virginia. The Title V ARRI Award winner for the Commonwealth was given to Jimmy Adkins of Paramount Coal Company Virginia LLC for their work on the Trace Fork #3 Surface Mine. The company has planted over 130,000 hardwoods and nurse species over the past three years while utilizing the FRA. Within the Abandoned Mine Lands program, Mountaineer Enterprises, Inc. took home the Title IV ARRI Award for their work on the Jewell Ridge Gob Pile Reclamation Project in Buchanan County. Finally, to recognize individual accomplishment in reclamation, the state awarded Mr. Arlie Collier with Paramount Coal Company Virginia LLC the Reclamationist of the Year Award for outstanding reclamation as the superintendent on the Hawks Nest Surface Mine permit.

The tree planting exercise followed with the students planting over 1,100 hardwood and wildlife species, and American Chestnuts on the prepared site just above the Coalfield Agricultural Marketing and Education Center. With a dozen backcrossed, blight-resistant Chestnuts now in the earth, the students shared in the excitement of resurrecting the fabled tree. The student’s smiles were the only thing that outshined the sun during the April 15th event. Many even stated that they wanted to come back to the site decades from now to show off the work that they had done. The sense of pride that is given to them with every seedling planted helped to make the event a rousing success.

