



# NASLR

## NATIONAL ASSOCIATION OF STATE LAND RECLAMATIONISTS

<http://www.naslr.org>

**Spring 2014**

### **President's Message**

*Cindy Cross*

*West Virginia Dept. of Environmental Protection*

Greetings!

As things in West Virginia [finally] begin to turn the brilliant green of spring, planning for the 42<sup>nd</sup> NASLR Annual Conference is underway in the State of New York! This year's conference will be held September 15<sup>th</sup> – 17<sup>th</sup> at the Hilton Garden Inn Newburgh/Stewart Airport in Newburgh, New York. Be sure to mark your calendars and save the date for what promises to be a fantastic conference from the folks in NY! A special group rate of \$127/night is available to those who book a room prior to August 14, 2014. After that, the rate will be the standard that the hotel offers. Information about the hotel and conference location can be found on the Conference tab. Conference registration forms are available by download on the NASLR website and should be mailed along with the registration fee to Derek Giebell, NASLR Secretary/Treasurer at the address on the form. For questions, feel free to contact any NASLR Officer or Executive Committee member. Additional conference information will be posted on the NASLR website as it becomes available.

As many states continue to face budget challenges, NASLR likewise faces some decisions that pertain to the future of the organization. Please come to this year's conference prepared to discuss options for the organization's future such as joining with another organization, going to a bi-annual conference, "redesigning" the organization to better suit today's needs, or other suggestions or ideas that might be introduced. Also take a few moments to download and read the NASLR Constitution, By-Laws and Policies (available on the website) as there will likely be discussions pertaining to changes and/or amendments to that document.

Recognize those in industry for exemplary work in reclamation! Don't forget to submit your nomination(s) for those in industry who deserve to be recognized for achievements in outstanding reclamation! Nomination packets must be received no later than August 1, 2014 to qualify for an award. Go to the Awards tab for more information on all of NASLR's award categories and nomination forms.

NASLR will also award one lucky student a \$1,500 scholarship for academic excellence in a reclamation-related field. Information about the scholarship, qualifications, and the application

process are available at the Scholarship tab. The deadline for submission is August 1, 2014.

NASLR is in need of volunteers to serve on the Nominations/Awards and Public Relations committees. The Nominations/Awards Committee is a small committee that is tasked with reviewing nomination packets and selecting awards winners. The required time commitment is minimal and duties generally end once winners are selected for the awards presentation at the annual conference. Nomination packets are emailed to each committee member for review and each committee member submits his/her vote(s) to the committee chair via email. Once each member has voted, the votes are recorded and winners selected. This committee requires no face to face meetings and is generally handled via email and phone conferences. We are in need of 3-5 committee members, to be chosen no later than June 30<sup>th</sup>. If you are interested in serving on this year's Nominations/Awards Committee, please contact me at [cindy.m.cross@wv.gov](mailto:cindy.m.cross@wv.gov). The Public Relations Committee is currently focusing only on the newsletters and getting those out in a timely manner. Derek Giebell, Secretary/Treasurer for NASLR, is currently assembling, editing and distributing the newsletter, and he needs some good committee members to help him get articles and reach out to other states. This committee is handled via email and phone conferences, and although it requires a little more commitment in duration since newsletters are sent out four times a year, it will not be all-consuming in time or activity. I extend my sincere appreciation to anyone who would be willing to assist with one or both of these committees, and I know that Derek would be grateful for some assistance at any level! If you have questions regarding the Public Relations Committee, please contact Derek at [Derek.W.Giebell@wv.gov](mailto:Derek.W.Giebell@wv.gov). Again, thank you in advance to anyone who can donate any amount of time to help with either of these committees!

Look for more information about conference events and planning on the website at [www.naslr.org](http://www.naslr.org) and in upcoming newsletters! I look forward to seeing everyone at the 42<sup>nd</sup> Annual Conference in Newburgh, New York! Thanks for your continued support!

## **42<sup>nd</sup> Annual NASLR Conference**

*September 15-17, 2014*

This year's conference will be held in Newburgh, New York! Mark your calendars for September 15-17, 2014. Reservations can be made at the Hilton Garden Inn Newburgh/Stewart Airport (845-567-9500; [www.newburghstewartairport.hgi.com](http://www.newburghstewartairport.hgi.com)). There are a limited number of rooms available at the conference rate (\$127/night), so book by August 14. After this date, it's first come, first served. You can register for the conference through the website by downloading a registration form. More information will be available on the website as it becomes available. If you are interested in presenting at the conference, please contact Tom Gragg at [tagragg@gw.dec.state.ny.us](mailto:tagragg@gw.dec.state.ny.us)

## **Awards Reminder**

The deadline for NASLR award submissions is August 1, 2014. NASLR award categories include the National Reclamation Award for both coal and non-coal, the NASLR Outreach Award for an individual or group, the Dean Spindler Reclamationist of the Year Award for both regulatory and non-regulatory personnel, and the NASLR Educational Grant Award. Please email questions or nominations to [cindy.m.cross@wv.gov](mailto:cindy.m.cross@wv.gov). The links to all the awards are at [www.naslr.org/awards](http://www.naslr.org/awards).

## **Scholarship Deadline**

Submit your application for a \$1500 scholarship from NASLR by August 1, 2014! Application forms can be found on the website.

## **2014-2015 Membership Dues**

Dues are coming up for the next fiscal year. Keep an eye out for renewal forms in the mail.

### **NASLR Crossroads**

*Mike Smith*

*Pennsylvania Dept. of Environmental Protection*

The past few years, attendance at the NASLR annual conference has been disconcertingly low. Although last year was perhaps the lowest attendance ever, this is a trend that has been ongoing for quite some time, especially following the 2008 recession when state travel budgets were severely restricted. The annual NASLR conference has historically been the heart and soul of the organization, but it's become difficult to find host states and to be assured of adequate attendance. The reasons for declining conference attendance are many, I'm sure, but certainly since so many states have cut back on their travel budgets and/or dropped out of NASLR entirely, it's getting increasingly difficult to attract enough attendees to hold a financially viable conference. Last year, despite a good technical program and field trip, NASLR posted a large deficit on its conference. This is a path that's unsustainable. I believe that NASLR now finds itself at a crossroads where we need to consider the path forward.

So what are our options? There are several, and I would like to lay them out for discussion. Of course, the first is to do as we've always done, getting host states and conference attendees and sponsors as best we can and hope that the current trend turns around. A second may be to hold our conferences every other year and have just a business meeting on non-conference years. The problem is that our organization really isn't structured to work that way with annual changes to

officers and the executive committee as well as annual awards. I believe that those two options leave a lot to be desired and may ultimately lead to the disappearance of NASLR.

How about some other ideas? Last fall, we heard from Prof. Bob Nairn from Oklahoma State University and current president of the American Society of Mining and Reclamation (ASMR) who annually holds a very well attended and successful conference, mainly focused on the technical aspects of mine reclamation and mine drainage treatment. They also produce a very nice quarterly publication. He made a very good pitch that NASLR could be accommodated as a division of ASMR, and that we could hold our annual meeting as part of theirs. If you haven't already read it, I encourage you to read his piece in the recent NASLR Winter newsletter.

Another idea is to hold our annual conference jointly with the National Association of Abandoned Mine Land Programs (NAAML P). In many ways, NAAML P is our sister organization, consisting of state program staff engaged in the reclamation of surface mines. Their focus is on abandoned mines; our focus is on active ones. But the technologies and issues involved have much overlap. Also, their annual conference is held in the fall, has two days of technical presentations, a business meeting, an awards banquet, and a field trip. The conference set up is nearly identical to ours, although their attendance tends to be much better. I recently asked NAAML P to discuss the possibility of NASLR jointly holding its annual conference with NAAML P. While I was unfortunately unable to attend their recent business meeting, it was on their agenda for discussion. Some concerns were brought up such as conference registration and lodging issues. Do we just use their room block and register for the NAAML P conference or do we have a separate registration? Would we have a separate banquet?

(Theirs is already very long.) Would we be able to obtain additional sponsorships? If we want to piggyback on their 2015 conference, which is already set up for Santa Fe, NM, they asked that someone from NASLR attend their 2015 winter business meeting to discuss how it could be accomplished.

Some considerations would apply to either of those options: Would NASLR be swallowed up and lose its autonomy, and does that matter? Can NASLR's reclamation and other awards be presented as part of another organization's conference? Would NASLR members be able to get approval for the ASMR or NAAML P conference? And would NASLR be able to maintain its focus on coal and non-coal reclamation in the field trip and conference? Finally, how would NASLR's charter and bylaws fit if were to become a division of ASMR or join forces with NAAML P? Or could we just hold our meetings concurrently with a shared technical session?

None of these solutions is perfect. They all have some drawbacks or things that need to be resolved. But all are worthy of our consideration. And of course there is always another option which I'll call the nuclear option. That is to disband NASLR and assign NASLR's assets to another 501(3)(c) organization. From my standpoint this is an unacceptable option but unless we do something, it may become an unpleasant reality. So I am asking that all NASLR members, affiliates, and friends consider these options, or perhaps come up with another new option. Please email any comments or ideas to me at [michaesmit@pa.gov](mailto:michaesmit@pa.gov) and I'll compile them for distribution. Ultimately, this is something that will need to be discussed at the 2014 business meeting in September and hopefully we can decide on a path forward to assure NASLR's continued viability.

## Notes from the Field

### *"The Importance of Experts"*

*Dean Spindler*

*Illinois Office of Mines & Minerals*

Regulatory agencies are frequently being challenged on permits either at public hearing testimony or in administrative hearings. There is definitely an increase in these challenges in recent years due to better financing. I had previously written an article on the importance of writing an effective and defensible permit decision document commonly called the finding. This article will focus on the importance of having expert staff.

The concept of being an "expert" carries a lot of legal weight in administrative challenges. Qualifying staff as experts can be an agonizing process. I can remember our legal staff and the opposing counsel spending a half day arguing whether the witnesses from each side were expert geologists or hydrogeologists. The same challenges were made to qualify the expertness between a biologist and a wildlife biologist. My experiences have shown it very important to have credentials if they are available, either thru degrees, professional organizations or state license agencies. Fields without licensure or certification put the professional staff at a disadvantage when there is a comparison based on academic degrees.

Agency administrators need to acknowledge the importance in keeping their staff credentials current and providing funding for the costs of continuing education or professional credentials, if possible. OSM offers a training class about being an expert witness. Most agencies will have technical staff with bachelor's degrees and possibly masters degrees. It is rare to have technical staff with a PhD. It is, however, not unusual to have an opposing expert with a PhD either employed by an environmental special interest group or from a college. Academic credentials can be intimidating

to technical staff and will pose challenges to your legal counsel to establish your expertness as equal or superior to the opposition.

After 37 years participating in public hearings and administrative challenges I am always amazed at the statements of academics with no mining or reclamation experience when presenting opposing opinion. The armchair academic PhD can easily spout textbook concepts or argue the absolute need for a long term study to create sufficient information before a decision can be made. Another recent argument is that reclamation information presented at professional conferences carries no weight unless the information is published in a peer reviewed journal. All of these arguments sound impressive to the public.

As long as you can qualify your technical staff as “expert,” most hearing officers will give a lot of weight to the testimony of the technical staff with the lesser degree, but which have practical field experience and have attended professional conferences or courses with continuing education credits. In a perfect world all of us would like to have the identical example of a successful reclamation project complete with reams of data proving the success which can be presented in an

application on which we can reference in our decision document. Although many agencies are going into their second generation of staff under SMCRA programs, hopefully your staff will have a broader range of reclamation experience than the applicant or the opposition.

Considering the circumstances of typically having a lesser academic degree and the potential for your technical staff to be second generation, it is important for agencies to document sites of successful reclamation in areas such as stream and wetland restorations, prime farmland reclamation, subsidence mitigation, and proper overburden handling and refuse disposal to allow its technical staff to avail themselves of , even if they are not published, as we are seeing issues raised today that were “resolved” thirty years ago. An older permit with successful reclamation and bond release should be better evidence than a textbook anytime!

Years ago, I remember one of inspector that had a plaque on his desk which pretty much sums up the value of experience. It read, “A desk is a dangerous place from which to view the world.” — John le Carré

***“Cole Creek Abandoned Mine Land Reclamation Project”***

***Wayne Van Buren***

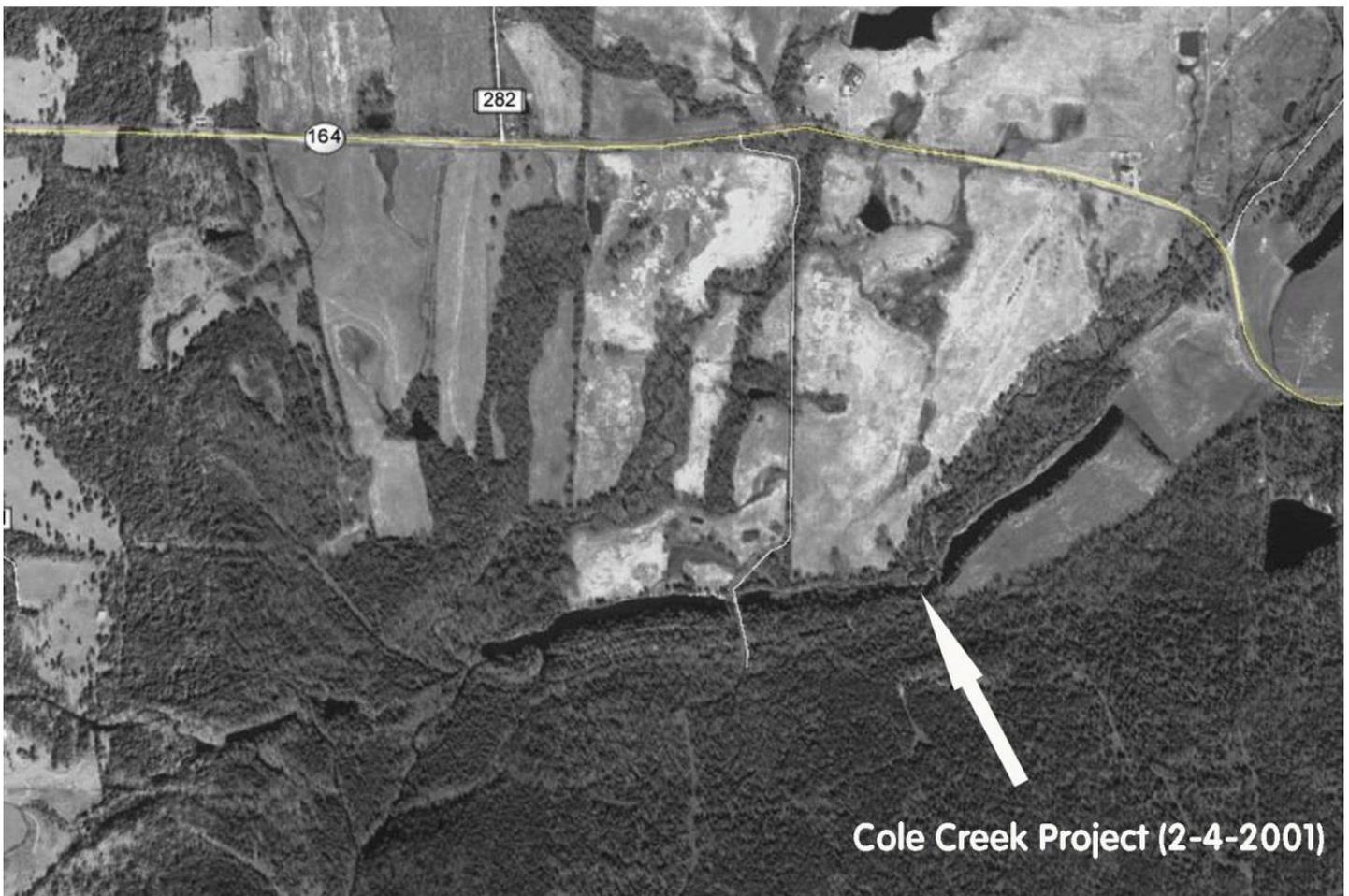
***Arkansas Dept. of Environmental Quality***

Located along the south side of State Highway 164 approximately three miles northeast of the community of Hunt in Johnson County, the Cole Creek Project area was mined by Utah Construction and Mining Company during the 1950s and 1960s. Recent and historical images of the 1.16-mile-long project may be viewed via the Internet on Google Earth by typing the coordinates 35 32 57 N 93 36 26 W in the Search panel.

The area was mined and left unreclaimed prior to the ratification of Arkansas’ first legislation in 1971 requiring mining permits and reclamation bonds. Since the site was mined and abandoned before November 1980, it was eligible for reclamation work under the Arkansas Abandoned Mine Lands (AML) program. To protect the public health and safety from the adverse effects of coal mining practices, the

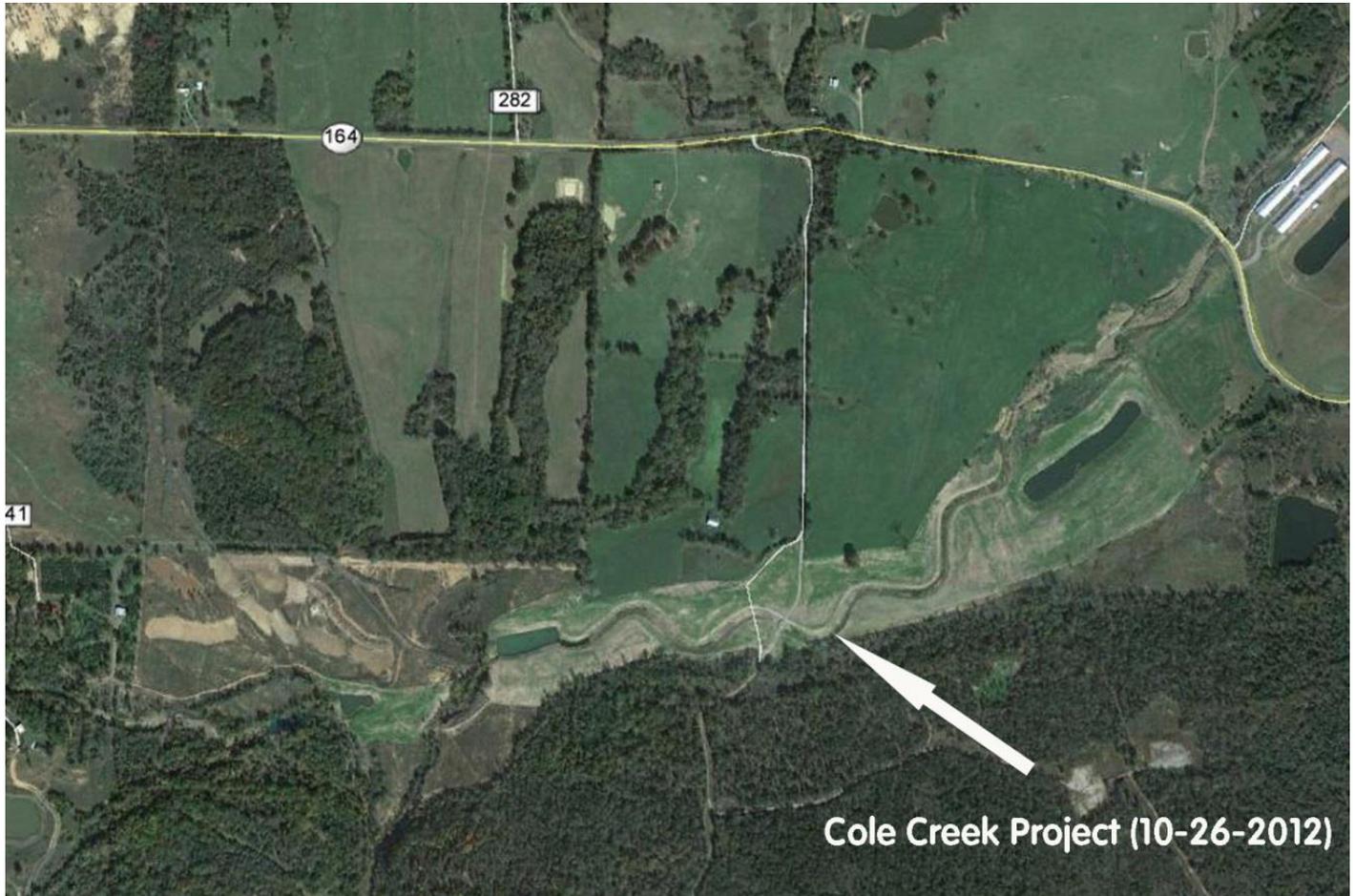
Arkansas AML program provides funding to pay for remediation work on lands mined for coal. Funds for the AML program are generated through assessments levied on coal and lignite mined in the United States.

During the 1960s, the surface mining activities disrupted the natural course of Cole Creek. Cole Creek, choking on its own mine sediment load, created a braided stream pattern. As it flowed westward across a pasture, it deposited its load and changed its course numerous times. The stream eventually approached the strip pits, whereupon it was pirated, and the flow direction was decreed by the shape of the strip pits. The linear configuration of the strip pits, which could not be deemed natural in appearance, assumed the role of a stream channel. The highwall, the adjoining spoil piles and the material in the pits encumbered the free flow of Cole Creek (see Google Earth imagery dated February 4, 2001).



Under a contract administered by the ADEQ, the Cole Creek Project cost \$1,365,654, and the work was performed by Axioo Construction, Inc. of Mulberry, Arkansas. The reclamation work, which commenced on January 20, 2012 and completed on April 23, 2013, consisted of earthwork of 546,000 cubic yards to establish acceptable slopes and eliminate dangerous embankments and hazardous water bodies; planting of 60 acres of grass, five acres of trees, and two acres of shrubs; creating three acres of stable surface impoundments; and reconstructing the banks and channel of about 0.7 of a mile of Cole Creek. To foster

the development of greater biologic diversity, the creek was reconstructed utilizing geomorphic design techniques. Features incorporated into the final configuration included natural sinusoidal meanders, rock stream barbs, rock cross vanes, and pools and riffles (see Google Earth imagery dated October 26, 2012).



The reclamation activities have provided higher order post-mining land uses of pastureland and forestry, which are in harmony with the neighboring rural landscape. Once the vegetation has become fully established, there will be less erosion and sediment contribution to the area hydrologic balance. Overall, the elimination of the dangerous features has resulted in a much more aesthetically pleasing environment and will foster long-term pride and comfort in the minds of the residents of the area.