

**TESTIMONY OF WALTER N. HEINE, P.E.  
BEFORE THE PA HOUSE OF REPRESENTATIVES  
COMMITTEE ON ENVIRONMENTAL RESOURCES & ENERGY  
JUNE 24, 1997**

**COAL MINE RECLAMATION AND ACID MINE DRAINAGE**

I thank you for the opportunity to present information to your Committee which will give you a perspective of a person with a long history of regulating the mining industry, dealing with abandoned mine lands problems, providing consulting engineering advice to mining operators, managing the operation of two large mine drainage treatment plants, and participating on advisory boards to this State. A summary of this experience is attached.

I am sure you are already aware of the enormous array of abandoned mine problems which our Commonwealth faces as a result of 150 years of coal and other mineral mining. You are also aware of the State's effort under "Operation Scarlift" in the 1960's, with a \$200 million bond issue to begin the task of identifying and categorizing all of the problems, to begin the necessary planning for their amelioration and the successful but limited measures to abate underground mine fires to prevent mine subsidence and to extinguish burning refuse banks.

In the late 1970's, the National abandoned mine lands programs began with a fund beginning to be established by fees imposed upon mine operators pursuant to the Federal Surface Mining Conservation and Reclamation Act (SMCRA).

As you have already heard today, much has been accomplished in Pennsylvania with the State's share of that federal fund, but a great deal remains to be accomplished.

Having been a witness to and a participant in the advancement in our technical know how during the last 35 years, I am pleased to hear from the Department that our ability to plan for coal mining operations, in such a manner to essentially eliminate the risk of post-mining pollution, is now quite successful. It was extremely difficult in the 1960's and 1970's, as a then young engineer charged with the responsibility of protecting the waters of the Commonwealth, to have no force of law to backup those efforts. In the late 1960's, we implemented the first regulations requiring deep mines to be designed so mining would be to the dip thereby assuring the mine workings would be inundated with water after completion of mining. This precludes oxygen from the mine workings, thereby reducing the "make" of polluted water. About the same time we began to improve surface mine operations by requiring the proper handling of acidic constituents in the strata so as to minimize the possibility of creation of acid mine drainage.

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After passage of the Federal SMCRA, the technology of overburden analysis to determine its pollution potential was initiated and has now acquired some sophistication. It allows the State Regulatory Authorities throughout the nation's coal mining states to more accurately determine whether permits for mining certain coals in specific physical settings should be allowed.

Although the coal mining industry was generally resistant to these advances in technology because of the costs involved and the reality of losing some coal reserves, the industry is now more comfortable with the knowledge that if operated properly, its mines will not create a liability to their companies or leave a polluttional legacy to the Commonwealth's citizens.

What more can we do to erase the mining scars of the past and start to reclaim the water quality in those many miles of streams which have been rendered useless for many decades?

One way is to continue with the abandoned mine lands reclamation programs that are presently funded by fees from active operations. This is essential to assure that we retain the long-term funding sources that will allow for long-term planning and implementation of reclamation and pollution abatement projects. The continuation of this program, however, must be removed from the political arena. As disheartening as it was for the mining industry to have to pay 35¢ a ton for surface mined coal or 15¢ a ton for deep mined coal to the Federal government (another tax), at least the industry anticipated that the money would make a real positive impact towards eliminating those mining problems so obvious to the public. It was hoped this would reduce the public's disdain for mining and its resistance to planned mining operations. Instead the industry, the environmental community and the states have seen the Federal reclamation fund appropriated to the states far below the income of the fund. I understand the fund presently has a surplus of about \$1.2 billion dollars!

Irrespective of which political party controls the White House or the Congress, this fund has been used to lessen the apparent size of the national debt and to bail out deficient funds of the United Mine Workers of America. Neither of these were expressed purposes of the fund, which was created in such an atmosphere of hope in 1977.

Today many of you have constituents who are suffering the adverse affects of old pre-act mining while the solutions to many of these problems lie in an unappropriated fund in Washington.

As previous testifiers have told you today, even if the fund is fully allocated and utilized, the rate at which old mining problems would be corrected would be very slow. That is why the Department of Environmental Protection, for at least two decades, has been working with the mining industry to encourage it to remine those areas where previous mining problems exist. In so doing, mining operations will correct some of those problems as part of their normal reclamation processes.

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Many more acres of scarred lands and points of acid mine drainage have been corrected by re-mining than by all of government's efforts through various abandoned mine lands reclamation funds. That is why the Pennsylvania legislature is to be commended for its passage of Act 173 in 1992, which is intended to provide regulatory mechanisms and incentives to industry to re-affect old mining problems as part of their active mining operations. I am encouraged by recent discussions with Deputy Secretary Dolence and the Federal Office of Surface Mining that the "no-cost contract" mechanism you established in the Act is getting closer to acceptance as a legitimate tool for the DEP and industry to use in combating old mining problems.

There is broad public acceptance, actually enthusiasm, for the continuation and broadening of all programs which will accelerate AML reclamation.

The Citizens Advisory Council and the Mining Reclamation Advisory Board provided a reclamation blueprint to the Department through a report entitled "A Pennsylvania Comprehensive Mine Reclamation Strategy." This proposes the combining the talents and resources of various governmental agencies such as the County Conservation Districts, local government, the Department and the mining industry to coordinate their efforts to maximize the clout of the abandoned mine lands fund.

I would like to relate to you a case history which typifies the abandoned mine problems faced by our citizens which can be solved with greatly reduced public expenditure if our laws and regulations are structured to allow common sense to prevail.

In Greene County, the village of Mather has endured, for 50 years, the presence of a black mountain of coal refuse immediately adjacent to the village. In addition to its unsightliness and the acid mine drainage and silt which emanates from its surface and core, the pile is now on fire resulting in a cloud of noxious fumes covering the village and nearby countryside. I am sure everyone would agree that this village suffered enough when in 1928, 195 of its men died in a mine explosion, almost one-fourth of the town's male population. Now, almost seventy years later, those men's descendants must continue to suffer the after-effects of mining. Incidentally, there is some even larger piles in Greene County, which are also on fire, and I am sure that some of you could relate similar stories of dangerous high priority abandoned mine problems in your districts.

The good news is the Greene County Industrial Development Authority has acquired the Mather refuse pile and has two mining and coal processing companies interested in removing much of the refuse before it ignites. Unfortunately, there is also bad news. Present regulations would assign complete responsibility to those mine operators for the adverse environmental affects of the entire pile, including the mine fire. The project presently is in limbo, although many of us are hard at work attempting to overcome the regulatory problems. Any mining company, of course, would be foolish to legally assume the responsibility for existing old environmental problems which it did not create and is trying to abate. The DEP has estimated that the cost to the AML

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Reclamation fund for extinguishing the fire would be about \$5 million dollars, yet if the operators were allowed to remove substantial portions of the non-burning refuse, the costs would obviously be significantly reduced. The threat to the people of Mather will only increase as the fire spreads as will the costs to the State for abatement and extinguishment increase, so time is of the essence. Efforts to establish a partnership of State, County and private resources to develop a "common-sense" mine abatement plan for this pile has been unsuccessful.

I want to emphasize that this is just one of dozens of similar cases throughout the Commonwealth where the logical association and coordination of State, local governments and private enterprise is still being thwarted by archaic laws, regulations and lack of governmental ingenuity.

What can your committee do now? I would suggest the following:

1. Request the Department of Environmental Protection to apprise you of the remaining barriers to implementation of programs which allow coordination among the State, private enterprise, local government and citizens groups, and which will allow problems, such as the one I described, to be attacked promptly and vigorously.
2. No oversight or budget hearing should go by without the Department having an opportunity to report to you on the successes and setbacks of the Abandoned Mine Lands Program and on any legislative needs to encourage re-mining of abandoned mine lands.
3. Strongly urge our congressional delegation to do what is necessary for release of the \$1.2 billion dollars now harbored in the Abandoned Mine Lands Reclamation Fund. An MRAB report indicates that, beyond the health/safety/general welfare and environmental benefits of AML reclamation, every one million dollars in contracts creates twenty-seven jobs in supporting construction work, and most go to Pennsylvania companies. Ten to twelve thousand jobs have been created in Pennsylvania by this program since its inception.

All of our citizens and the mining industry deserve to see that this specifically earmarked fund is utilized promptly for its intended use. The further deterioration of the environment from many of these mining problems and the increased costs of abatement erode at the value of the fund every day. We must act promptly and forcefully before Congress and the White House discover other uses for this fund.

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**PARTIAL RESUME**

**WALTER N. HEINE, P.E.**

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- 1961 - 1965 Water Pollution Control staff for the PA Department of Health for the northeast region (Kingston) and the northwest region (Meadeville).
- 1966 - 1970 First Director of the newly formed Division of Mine Drainage Control in the State Health Department implementing the 1965 law regulating for the first time mine drainage discharges.
- 1970 - 1977 Deputy Secretary for Mines and Land Protection in the then new Department of Environmental Resources regulating, among other things, the surface mining of coal, deep mine safety and the mine subsidence insurance program.
- 1977 - 1981 Presidential Appointment as First Director of the Federal Office of Surface Mining in the U.S. Department of the Interior, regulating environmental effects of mining throughout the country.
- 1981 - Present President of Walter N. Heine Associates Inc., which provides, among other things, engineering consultation and services to private industry and state and federal government.
- 1984 - Present Member of the Citizens Advisory Council to the DEP, legislatively mandated council to provide advice and monitoring of the operations of the DEP.
- 1984 - Present Member and recent Chairman of the Mine Reclamation Advisory Board, a legislatively mandated board which advises the DEP on surface coal mining matters.
- Present Member the Environmental Quality Board, which promulgates all environmental regulations of the DEP.