

WRTT Conference Call

December 16th, 2010

Monday 11:00 PM Mountain Time

Call: 1-877-612-4949 Passcode: 8870122

WRTT

TIPS, Technology Transfer, Training and General Information:

- Please check out the updated **TIPS** website for recent updates! These are located in the “What’s New?” section of the page.
<http://www.tips.osmre.gov>
- Please check out the updated **NTTT** website for recent updates! These are located at: <http://www.techtransfer.osmre.gov>
- Check out the newly designed **OSMRE** website at: <http://www.osmre.gov>
- Check out the newly designed **OSMRE-WR** website at:
<http://www.wrcc.osmre.gov>
- Please review the new **WRTT** *SharePoint* site at:
<https://nttt.osmre.gov/TechTransfer/default.aspx>
(Note: All new equipment specifications are available on the WRTT *SharePoint* site).
- Upcoming events: <http://amd.osmre.gov/ttcalroot/TTCalendar.aspx>
- Note: We plan on having a meeting titled “*Challenges of Bond Release for Western U.S. Coal Mining*” and would like to invite all states/tribes to attend and/or present at this meeting. The original cut-off date was December 1, 2010. If you are interested in presenting, please let us know immediately!

Discussion Topic(s):

As stated in the November 9, 2010 issue of [Inside EPA.Com](#) “A three-judge panel of the U.S. Court of Appeals for the 4th Circuit ruled unanimously Nov. 8 in *West Virginia Highlands Conservancy (WVCA) et al. v. Huffman* that the state of West Virginia was required to obtain National Pollutant Discharge Elimination System (NPDES) permits for discharges at abandoned coal mine sites where the state oversaw cleanup activities”.

Currently, this ruling only applies to the state of WV. This ruling may have further reaching effects than originally anticipated. What are your thoughts on this ruling, and, how might you deal with this issue should it arise in your state?

The OSMRE Casper Field Office (CFO) representative noted that, as a former state of MT employee, the Montana AML program had obtained storm discharge permits via the EPA in the past. This was done as it was considered the “Best Management Practice” (BMP). The AML sites were all hard rock sites and were covered under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). The term “substantive compliance” was used in regards to these sites. The state of

Colorado stated that they began obtaining storm water discharge permits for their AML sites. The state agency was tasked to obtain these permits- not the individual contractor- and, this was written directly into the bid documents. The OSMRE Program Support Division (PSD) representative (and former state of WY employee) stated that, while working for the state of WY, he remembered having to obtain a surface water pollution prevention plan for some of the AML sites. In this case (and like the state of CO), the WY AML program applied for these “permits”- not the contractor. He also noted that on one of the sites in WY, a point source discharge (water was being pumped from underground works) could be an issue as these discharges may not meet NPDES standards. The state of UT noted they had a discharge from an inactive underground mine (Crandall Canyon mine) that is being treated, and, will most likely continue to be treated into perpetuity. Another OSMRE PSD representative noted he’d done calculations on sites like that (OK was used as an example) and that his calculations show that the cost “flattens out” by the time the 75 year mark is reached. Numerous people noted that this type of problem exists in their states, but, an active site is treated much differently than an AML site. The AML site does not have the bonding in place to handle the possible non-compliant discharges, and, if these NPDES regulations become law, the burden of handling these sites falls on the state/tribe in which the site is located. The state of CO noted that, if they are required to permit all AML sites, just the fee alone is cost prohibitive (\$245 just to permit the site). This doesn’t even take into consideration monitoring these sites (with many sites being inaccessible most of the year). PSD mentioned that making an NPDES permit a requirement on an AML site would be prohibitive and a more flexible approach needed to be implemented (an alternative approach to inspection). TMD stated that alternatives were being proposed (such as the “good Samaritan discharge permit”, proposed by a senator from CO) and that NPDES permits may not be required for AML sites. He also noted that all Army Corps of Engineer 402 permits/NW-21 permits would be renewed in 2012 and that many of these may be determined on a “site by site” basis- not the old “blanket” permits.

All in all, the consensus of the group seems to be that requiring an NPDES permit for AML sites would be both restrictive and, in the long run, detrimental to both states and tribes.

WRTT Member Reports/Information

Alaska: Not present

Arizona (Navajo): OSMRE recently sent two representatives to evaluate AML sites in which geomorphic reclamation might be used. This will culminate in a class being held for all Navajo Nation employees sometime during the spring of 2011.

Arizona (Hopi): Not present

Colorado: The state of CO is addressing projects all the way to the end of the year (due to the nice weather).

Montana: Preparation for the next field season has begun. A database project is being evaluated for its potential uses for the AML program.

Montana (Crow): Preparation for the next field season has begun. A project (Pryor railroad tunnel) is being addressed as a priority 1 site due to the danger of the site.

New Mexico: One project is currently being completed. One project is now taking bids.

North Dakota: Not present (sent response by e-mail): We (or our contractors) have been required by our State Department of Health to obtain NDPDES construction permits to discharge storm water associated with construction activity for some AML projects. This hasn't been too much of a burden and has mainly required visual monitoring of discharges and best management practices to control runoff. Our State DOT has similar requirements for its road construction projects. These storm water permits haven't required post-construction monitoring of AML sites. We have a pretty good working relationship with our State Department of Health and I don't expect any serious problems in our state.

Utah: The water treatment at the Crandall Canyon site is now in compliance. A new mine permit is being reviewed (Kenny #2). Another new mine permit had been challenged (Alton Mine), but, has been approved and is moving forward.

Wyoming: Not present.

Casper Field Office: Not present.

Program Support Division/Albuquerque Area Office/Farmington Area Office: Business as usual (Navajo Nation already covered the geomorphic reclamation field evaluation trip).

Denver Field Division/ Olympia Area Office: Not present

TIPS: ArcGIS 10 is being copied and will soon be ready for distribution (January). All users of TIPS software should have the newest version of KeyServer installed, or, they will not be able to use any TIPS software. We have a new FLIR thermal camera (available to check out the end of January). The new TIPS website will be unveiled in the coming weeks. It is important that any of you who have used any TIPS tools post a success story to the new site (1-page with photos will suffice).

Next Call: January 18th, 2011 (subject to change)