WEST VIRGINIA CODE: §22-27-4

§22-27-4. Eligibility and project inventory.

(a) General rule. -- An eligible landowner or eligible project sponsor who voluntarily provides equipment, materials or services at no charge or at cost for a reclamation project or a water pollution abatement project in accordance with the provisions of this article is immune from civil liability and may raise the protections afforded by the provisions of this article in any subsequent legal proceeding which is brought to enforce environmental laws or otherwise impose liability. An eligible landowner or eligible project sponsor is only entitled to the protections and immunities provided by this article after meeting all eligibility requirements and compliance with a detailed written plan of the proposed reclamation project or water pollution abatement project which is submitted to and approved by the department. The project plan shall include the objective of the project and a description of the work to be performed to accomplish the objective and shall, additionally, identify the project location, project boundaries, project participants and all landowners.

(b) Notice. -- The department shall give written notice by certified mail to adjacent property owners and riparian land owners located downstream of the proposed project, provide Class IV public notice of the proposed project in a newspaper of general circulation, published in the locality of the proposed project, and shall give public notice in the state register. The project sponsor may also provide public notice. Any person having an interest which may be adversely affected by the proposed project has the right to file written objections to the department within thirty days after receipt of the written notice or within thirty days after the last publication of the Class IV notice. The department shall provide to the project sponsor a copy of each written objection received during the public comment period, which shall conclude at the expiration of the applicable thirty-day period provided for in this section.

(c) Advice. -- The department may provide advice to the landowner or to other interested persons based upon the department's knowledge and experience in performing reclamation projects and water pollution abatement projects.

(d) Departmental review. -- The department shall review each proposed reclamation project and approve the project if the department determines the proposed project:

(1) Will result in the appropriate reclamation and regrading of the land according to all applicable laws and regulations;

(2) Will result in the appropriate revegetation of the site;

(3) Is not likely to result in pollution as defined in article eleven of this chapter; and

(4) Is likely to improve the water quality and is not likely to make the water pollution worse.

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(e) Project inventory. -- The department shall develop and maintain a system to inventory and record each project, the project location and boundaries, each landowner and each person identified in a project plan provided to the department. The inventory shall include the results of the department's review of the proposed project and, where applicable, include the department's findings under subsection (b), section ten of this article.

(f) Appeal. -- A person aggrieved by a department decision to approve or disapprove a reclamation project or a water pollution abatement project has the right to file an appeal with the environmental quality board under the provisions of article one, chapter twenty-two-b of this code.

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