

AGGREGATE ADVISORY BOARD (BOARD)
Wednesday, August 12, 2015
Harrisburg, PA

Rachel Carson State Office Building
2nd Floor Training Room

VOTING MEMBERS OR ALTERNATES PRESENT

John Stefanko, Department of Environmental Protection (DEP): Deputy Secretary, Office of Active and Abandoned Mine Operations (Alternate, Chairman)
Thomas Bryan, Bryan Materials Group (Member)
Representative Bryan Barbin, Pennsylvania House of Representatives (Member)
Terry Dayton, Citizens Advisory Council (CAC) (Member)
Paul Detwiler, III, New Enterprise Stone and Lime Co., Inc. (Alternate)
Richard Fox, Executive Director, Senate Environmental Resources and Energy Committee (Alternate)
Mike Hawbaker, Glenn O. Hawbaker, Inc. (Alternate)
Walter Heine, CAC (Member)
Robert Hughes, Eastern PA Coalition for Abandoned Mine Reclamation (EPCAMR) (Member)
Jonathan Lutz, Executive Director, House Environmental Resources and Energy Committee (Alternate)
Representative Sandra Major, PA House of Representatives (Member)
Adam Pankake, Office of Senator Gene Yaw (Alternate)
William Ruark, PA Bluestone Association (PBA) (Member)
Todd Schmidt, PBA (Alternate)
Mark Snyder, Pennsy Supply, Inc. (Member, Vice-Chairman)
Thaddeus Stevens, CAC (Member)
Patty Tamayo, Office of Representative Bryan Barbin (Alternate)
Michelle Tate, Executive Director of the CAC (Alternate)
Peter T. Vlahos, PACA (Alternate)
Burt Waite, CAC (Member)

OTHER ATTENDEES

Bill Allen, DEP Bureau of Mining Programs
Tom Callaghan, DEP Bureau Director, Mining Programs
Bruce Carl, DEP Bureau of Mining Programs
Laura Edinger, DEP Policy Office
Michelle Elliott, Independent Regulatory Review Commission (IRRC)
Josie Gaskey, PACA
Jennifer Gulden, DEP Bureau of Mining Programs
Sharon Hill, DEP Bureau of Mining Programs
Darrel K. Lewis, Allegheny Minerals Corp.
Shuvonna Perry, DEP Bureau of Mining Programs
Mike Plazek, DEP Bureau of Mining Programs
Paul Pocavich, DEP Bureau of Mining Programs
Dan Snowden, DEP Bureau of Mining Programs

CALL TO ORDER/INTRODUCTIONS

Board Chairman Stefanko called the meeting to order at 9:59 a.m. All persons in attendance introduced themselves.

APPROVAL OF MINUTES

There were several recommendations for revisions to the May 13th, 2015 meeting minutes. Specific revisions included: 1) listing Mr. Tim Gourley's affiliation as being with Dietz-Gourley Consulting, LLC; and 2) noting that Mr. Waite had volunteered to be chairperson of the yet-to-be formed Annual Report Committee. Additionally, it was recommended that future meeting minutes include a list of action items as a separate component of the meeting minutes, in order to ensure that nothing is missed during Board meetings. Once these revisions were agreed upon, the Board voted unanimously to approve the minutes from its May 13th, 2015 meeting.

CORRESPONDENCE

No correspondence was reported for the Board.

COMMITTEE REPORTS

Although not officially established as yet, some details were shared about the Board's forthcoming Regulatory, Legislation and Technical Committee. It was stated that this Committee would be necessary, due to regulations coming forward. Mr. Vlahos reported that a conference call to set up the Committee occurred on July 15th, 2015 and, at that time, a mission statement for the Committee was drafted. The mission statement was shared with the Board; it reads as follows:

“ The Regulatory, Legislative and Technical Committee of the Aggregate Advisory Board is tasked with evaluating, recommending and/or advising the Aggregate Advisory Board regarding existing and proposed legislation, regulations, guidance, policies, white papers and other non-regulatory agenda items, as they relate to the aggregates (stone, sand and gravel, bluestone and other industrial minerals) industry in Pennsylvania.”

Mr. Callaghan added that the Committee should meet between full Board meetings and, that its first case would involve the Non-Coal Fee regulations. After some discussion, the Board voted unanimously to designate 6 persons to serve as members of the Committee: Rep. Bryan Barbin; Paul Detwiler, III; Richard Fox; William Ruark; Mark Snyder; and Thaddeus Stevens. An action item related to the Committee is provided at the end of the minutes.

FEEDBACK ON THE MILLARD QUARRY TOUR

On August 11th, 2015, Board members and alternates, along with DEP staff and others, attended a tour of the Millard Quarry operation, owned by Pennsy Supply. Overall commentary was positive; the experience of the tour was found to be a unique educational experience for some, while providing unique perspectives for others (being able to view both the operating quarry and the recently closed quarry; visiting an actual quarry for the first time). Mr. Snyder thanked all those who participated in the tour, touting its core value of community outreach.

UPDATES

Technical Guidance

Mr. Allen began with by reporting that there was a new technical guidance document regarding the actual development of guidance. Interaction with advisory committees is part of this document. Mr. Allen continued by providing the status of mining-related guidance documents:

- Pre-Applications: In process.
- Engineering Manual: With the Office of Chief Counsel; will be published for comment.
- Blaster's License Suspension: In the finalization stages; the existing matrix in this guidance document may be scrapped for a point system.
- Coal Ash: In process.
- General Permit (GP) Materials: In process.
- Civil Penalties: In the routing process; this guidance document will include changes on National Pollutant Discharge Elimination System (NPDES)-related violations.
- Government Financed Construction Contracts (GFCCs): In process.
- Reclamation Fill: This specific technical guidance document (TGD 563-2000-301 – Use of Reclamation Fill at Active Non-Coal Sites) was a subject of interest. The document is being finalized in the Mining Program and will go to the Policy Office next. Ms. Hill explained that changes to the TDG are related to program consistency (Mining Programs and Act 2/Chapter 250), with special concerns about the quality of imported materials used at mine sites for reclamation and, chemical constituent standards (in this case, Statewide Health Standards). The Board will get the document with changes, and it will be an agenda item for its next meeting (November 10th, 2015 – tentative); prior to this, the document will be reviewed by the Board's Regulatory, Legislative and Technical Committee. Additionally, the Cleanup Standards Scientific Advisory Board will review the document at its December 16th, 2015 meeting.

Regulatory Update

On the matters of regulations, Mr. Allen reported on the following:

- Chapters 210 (Blasters' Licenses) and 211 (Storage, Handling and Use of Explosives): These are being rewritten to include language related to the use of explosives for seismic exploration and, to civil penalties for explosives violations that are not related to mining activities.
- Non-Coal Fees: This set of regulations is discussed in detail later during the meeting.
- Non-Coal Program (Chapter 77): This set of regulations may be removed from the Regulatory Agenda due to its having few substantive changes (Board input is sought on this).

NPDES Permitting Update

Mr. Allen first reported that as of 7/31/15, 598 draft NPDES permits have been sent to US EPA, with 30 of these being non-coal permits. US EPA provided comments to or objected on 345 of these permits. Of the 30 non-coal permits that were issued, 6 of these were issued with comments and 19 of these were issued without comments (including 15 "no comment" letters). Of the remaining permits that could be issued, 2 of these were issued with comments and 3 were issued without comments. None of the permits issued were awaiting a 30-day period.

Mr. Allen also shared some findings of the June 11th, 2015 letter from EPA about the DEP request to reinstate its waiver of review for NPDES permits within the Monongahela River and its tributaries. The issues raised in the letter included:

- *Identifying parameters of concern*
- *Conducting appropriate Reasonable Potential Analysis (RPA)*
- *Appropriate use of water quality spreadsheets (WQSSs)*
- *Effluent Characterization (Mr. Allen mentioned that US EPA inquired about a small business exemption in the permits (i.e., based on coal tonnages– this appeared to be indefensible); Mr. Allen stressed that this matter had already been addressed*
- *Water Quality-Based Effluent Limits (WQBELs) for sedimentation ponds and non-Total Maximum Daily Loads (TMDLs) – Mr. Allen stated that these are not changing in mining NPDES permits and, that DEP had addressed this matter*
- *Alternate Precipitation Limits*
- *Flow Schematic (for non-coal permits, a flow diagram is required in the NPDES permit application)*
- *Fact Sheet*
- *TMDLs*
- *Checklist with a timeline (DEP included these with current data; later, only the checklist was included after a “successful consistency” determination from US EPA – input from the District Mining Offices (DMOs) was helpful here)*
- *Review of selected draft permits*

Historical Applications (Non-Coal)

Mr. Allen reported that as of 7/31/15, 408 of 444 non-coal permit applications were disposed, all of which came from the Pottsville District Mining Office. Of these, only 8% (36 permit applications) remain for action; there are also 17 permit renewal applications included among these figures.

Permit Decision Guarantee (PDG) Applications (Non-Coal)

Mr. Allen provided details as to where things stood with non-coal permit applications subject to the PDG (based on how many permit applications received, issued, withdrawn and, returned or denied – per DMO):

- *Pottsville DMO: 581 permit applications received; 379 permits issued; 17 permit applications withdrawn; and 10 permit applications returned or denied. On-time performance; 62.3%.*
- *Moshannon DMO: 217 permit applications received; 178 permits issued; 10 permit applications withdrawn; and 10 permit applications returned or denied. On-time performance: 88.2%.*
- *New Stanton DMO: 113 permit applications received; 87 permits issued; 2 permit applications withdrawn; and 2 permit applications returned or denied. On-time performance: 66.7%.*
- *Cambria DMO: 145 permit applications received; 113 permits issued; 1 permit application withdrawn; and 4 permit applications returned or denied. On-time performance: 80%.*
- *Knox DMO: 353 permit applications received; 311 permits issued; 7 permit applications withdrawn; and 4 permit applications returned or denied. On-time performance: 92.3%.*

Mr. Allen continued by reporting that as of 7/31/15, for on-time PDG performance, there were 276 non-coal PDG applications pending. Of these, 24 were small operators, 61 were large operators, and 129 were NPDES-related. A few other PDG applications were related to blast plans, completion reports, and GPs). The average number of days elapsed under the PDG was 173. Additionally, for non-coal PDG applications that were overdue, these totaled 144 (with 8 small operators, 25 large operators and 82 NPDES-related). Here, the average number of days elapsed was 288.

Board members recommended the following action items on this topic:

- An overview of how the PDG permitting program works
- Coal PDG application information (for comparison to non-coal)

BOND RATE GUIDELINES (NON-COAL)

Mr. Carl provided some initial details regarding bond rate guidelines to the Board. He stated that in 2011, the bond rates were updated in the Pennsylvania Bulletin; he expressed the need for additional reclamation cost data, since there are very few non-coal reclamation projects in the Commonwealth. He also mentioned a few factors common to coal and non-coal site reclamation projects, including, grading, revegetation and spoil grading.

Mr. Carl then moved to how bond rates are calculated. Using coal site reclamation as a starting point, he mentioned the existence of reclamation contracts and taking the 3 lowest bids, which are then averaged out over a 3-year period to get the weighted average of yearly costs for reclamation. For grading and revegetation (based on 2010 coal bond rates), the reclamation cost was \$1,600/acre for selective grading and \$1,530/acre for revegetation. Using these coal figures to determine the costs for large non-coal operations, reclamation costs for disturbed areas, including grading with revegetation, was rounded to \$3,000.00/acre. Revegetation costs for support areas were rounded to \$1,500.00/acre. Spoil grading costs on coal sites for 2010 was between \$.80/cubic yard and \$1.00/cubic yard. Averaging these costs came to \$.90/cubic yard for spoil grading on large non-coal sites

Mr. Carl continued with a discussion of reclamation blasting costs to achieve final slope. Here, blasting down a highwall or bench could cost between \$.50 and \$1.20/linear foot based on 2010 industry estimates. For highwalls and benches the blasting reclamation costs are between \$10.00/linear foot for 20ft highwalls/benches to \$60.00/linear foot for 50ft or greater highwalls/benches. Related costs were also mentioned, including pond removal (\$3,800.00/pond); spreading topsoil rates \$1,600.00/acre. Grading costs for large non-coal sites with unconsolidated materials range between \$1,600.00/acre to \$3,500.00/acre depending on the height of the highwall. The only adjustment in the non-coal bond rates that may be needed to reflect current reclamation costs is the cost for spoil grading. The coal grading costs are currently between \$.90/cubic yard and \$1.05/cubic yard. Averaging these values would be \$97.5 cents rounded up to \$1.00/cubic yard.

Mr. Carl wrapped up his presentation by mentioning that bonding costs for non-coal site reclamation projects could be looked at annually. It was noted that there is some inequity among the bonds on non-coal sites, as not all of them are currently bonded at the full-cost bonding rates. The Board requested an action item on this topic – specifically to determine the various types of information to look for with regards to full-cost bonding details.

NON-COAL FEES

Mr. Allen provided a report on non-coal fees. He began by mentioning the fee schedule, which was proposed in August of 2012 and finalized in October of 2012. Information on permit fees and annual administrative fees are part of this schedule. Mr. Allen also mentioned other sources of revenue for the Non-Coal program, including license fees; interest; payments-in-lieu of bonds (PILBs); bond forfeitures (these are restricted in the Non-Coal program); and cash collateral. Mr. Allen continued by mentioning Non-Coal Fund obligations. These are related to the overall Non-Coal Program Administration; Reclamation of Bond Forfeiture sites (via restricted bonds and supplemental costs); Return of Cash Collateral upon release of bonds; and Reserves for PILBs.

From here, Mr. Allen focused his attention on the variety of Non-Coal Program costs. These were presented as follows (based on Fiscal Year (FY) 2013-2014 data):

- **Salaries:** These comprise approximately 52.2% of total Non-Coal Program costs, and include the following:
 - *Regular Hourly Salaries: \$1,656,824.38 (51.85%)*
 - *High-Class Hourly Salaries: \$98.93 (0.0%)*
 - *General Pay Increases (Cash Payments): \$1,174.00 (0.04%)*
 - *Wages (Regular Hourly): \$7,705.35 (0.26%)*
 - *Overtime (Straight – Hourly Time Rate): \$165.23/hour (0.01%)*
- **Benefits:** These comprise approximately 30.6% of total Non-Coal Program costs, and include the following:
 - *Hospital Insurance: \$224,623.49 (7.44%)*
 - *Social Security (SS) Containment: \$96,810.75 (3.21%)*
 - *Medicare (SS): \$22,640.56 (0.75%)*
 - *Retirement Contributions: \$234,402.32 (7.76%)*
 - *State Workman’s Insurance Premiums: \$29,495.38 (0.98%)*
 - *Employer Group Life Insurance (SS): \$3,277.60 (0.11%)*
 - *Health Benefits (SS): \$312,679.71 (10.35%)*
- **Distributions:** These comprise approximately 15.4% of total Non-Coal program costs, and include the following:
 - *Leave Payout Assessment: \$26,776.72 (0.89%)*
 - *Salary Distribution: \$305,115.21 (10.10%)*
- **Additional Costs:** These comprise approximately 2.14% of total Non-Coal program costs, and include the following:
 - *Specialized Services (mainly laboratory-related): \$57,027.13 (1.89%)*
 - *Postage: \$0.98 (0%)*
 - *Printing: \$17.76 (0%)*
 - *Insurance/Surety and Fidelity Bonds: \$53.68 (0%)*

- *Other Operation Expenditures: \$1,852.56 (0.06%)*
- *Refunds: \$3,000.00 (0.10%)*
- *Inter-fund Reimbursements: \$2,649.70 (0.09%)*
- *Administrative Training (Personnel): -\$8,373.86 (-0.28%)*

Mr. Allen also provided similar information for FY 2014-2015, as follows:

- **Salaries:** These comprise 49.23% of total Non-Coal Program costs, and include the following:
 - *Regular Hourly Salaries: \$1,361,443.40 (49.13%)*
 - *High-Class Pay Salaries: \$484.95 (0.02%)*
 - *General Pay Increases (Cash Payments): \$1,193.00 (0.04%)*
 - *Wages (Regular Hourly): \$1,904.44 (0.07%)*
 - *Overtime (Hourly, Straight-Time Rate): \$121.84 (0.0%)*
- **Benefits:** These comprise 31.48% of total Non-Coal Program costs, and include the following:
 - *Hospital Insurance: \$212,295.07 (7.66%)*
 - *Social Security (SS) Containment: \$83,517.23 (3.01%)*
 - *Medicare (SS): \$19,532.05 (0.70%)*
 - *Retirement Contributions: \$266,167.94 (9.16%)*
 - *State Workman's Insurance Premiums: \$13,970.16 (0.50%)*
 - *Employer Group Life Insurance (SS): \$2,814.95 (0.10%)*
 - *Health Benefits (SS): \$286,782.87 (10.35%)*
- **Distributions:** These comprise 15.94% of total Non-Coal Program costs, and include the following:
 - *Leave Payout Assessment: \$24,955.24 (0.90%)*
 - *Salary Distribution: \$263,845.54 (9.52%)*
 - *Benefit Distribution: \$153,073.65 (5.52%)*
- **Additional Costs:** These comprise 2.82% of total Non-Coal Program costs, and include the following:
 - *Specialized Services (mainly laboratory-related): \$81,457.00 (2.87%)*
 - *Postage: \$0.82 (0%)*
 - *Printing: \$2,436.02 (0.09%)*
 - *Insurance/Surety and Fidelity Bonds: \$33.20 (0%)*
 - *Other Operation Expenditures: \$224.67 (0.01%)*
 - *Continuity Repairs (Non-EDP): \$500.00 (0.02%)*
 - *Inter-fund Reimbursements: \$2,962.93 (0.11%)*
 - *Administrative Training (Personnel): -\$7,628.40 (-0.28%)*

Mr. Allen also shared some graphical information about Non-Coal Program expenditures (the bulk of these cover salaries and benefits) and revenues. The latter element reads as follows:

- ***FY 2012-2013:*** \$819,680 in fees revenue collected (\$589,925.00 collected in administrative fees and \$229,755.00 collected in permit fees).
- ***FY 2013-2014:*** \$1,778,475.00 in fees revenue collected (\$1,367,950.00 collected in administrative fees and \$410,525.00 collected in permit fees).
- ***FY 2014-2015:*** \$1,747,635.00 in fees revenue collected (\$1,427,850.00 collected in administrative fees and \$319,785.00 collected in permit fees).

Finally, Mr. Allen shared graphical information about the overall status of Non-Coal Program revenues and expenditures. For the most part, expenditures have been higher than revenues, with the exception of FY 2010-2011.

NEW BUSINESS

Mr. Hughes expressed interest in greater interaction between the coal and non-coal industries, in terms of the latter industry's supplying high-quality limestone for use in the former industry's acid mine drainage (AMD) treatment systems. He then mentioned a specific interest in identifying aggregate industries around Pennsylvania that are specifically in the limestone quarry business and off-spec lime sector that might be able to share a directory of contacts at some of those companies that are in the business of selling or donating, writing off possible tonnage of limestone sand, rock (of various sizes) that he would like to share with community watershed groups and Conservation Districts in the reclamation arena that utilize this resource for treating AMD. Mr. Hughes stated that EPCAMR has contracted with several companies over the years (e.g., the CON-LIME and Pennsy Supply quarries in Southeastern Pennsylvania) to obtain high calcium carbonate limestone for use in various AMD Treatment System projects that EPCAMR is undertaking, both on its own and, with several groups that the organization works with across the Commonwealth.

Mr. Hughes stressed the importance for watershed and related groups to develop operation and maintenance plans that look 20-25 years into the future and, that include the replenishment of limestone for some of the various AMD treatment systems. It is understood that more of this limestone will be needed, due to the dissolution of the rock within the systems. As such, locking in an early rate or long-term tonnage supply can reduce overall AMD treatment system costs to the groups and, could show the Commonwealth that the commitments are firm. Mr. Hughes mentioned that this matter was a discussion item at the 17th Annual Pennsylvania Abandoned Mine Reclamation (PA AMR) Conference in State College; relevant presentations are on the PA AMR web site, www.treatminewater.com.

Mr. Hughes also expressed interest in securing any kind of industry brochures that might be able to show volunteers what the various sizes of rock are in the industry. He inquired as to whether any company would have such brochures or posters of the various rock sizes or a document that EPCAMR might be able to share with the abandoned mine reclamation community. He also stated that if requested, he would provide details to the Board regarding the future of various types of AMD Treatment Systems across PA that are using limestone as a product and solution to improving the water quality in many watersheds. He later added that he would be willing to coordinate with the reclamation community to invite those volunteers and community leaders to a future site visit to a

limestone quarry, outside of the Board once he was able to make some additional networking point of contacts (Glenn O. Hawbaker, Inc. was mentioned in this case)..

ENHANCING TRANSPARENCY IN THE POLICY PROCESS

Ms. Edinger provided an overview of DEP's Technical Guidance Policy. The policy aims to provide new tools to engage with DEP and see feedback received, provide early notice as to policies and guidance DEP is working on to maximize the opportunity for public participation, and ensure DEP is engaging the experts on advisory committees. The major revisions to the policy include the development of a non-regulatory agenda and enhanced advisory committee consultation. The policy was published as interim final on May 30th, 2015, followed by a 45-day public comment period; three comments on the guidance were received – coming from PACA, the Marcellus Shale Coalition, and CAC. Additionally, Ms. Edinger discussed the development of a new tool, eComment, for public engagement and feedback. eComment can be accessed at <http://www.ahs.dep.pa.gov/eComment/>. DEP encourages commenters to use eComment to submit comments on its regulations, policies, guidance documents and other documents open for comment. DEP will continue to accept comments via email and US postal mail.

OPEN TIME

No comments or questions were received from the audience. However, members did decide on a date for the next Board meeting. This date is tentatively set for November 10th, 2015 (this will be on a Tuesday, as the following Wednesday (November 11th) is Veterans' Day). Also, a walk-through of the DEP regulatory process was recommended, to which Ms. Edinger agreed.

ADJOURNMENT/NEXT MEETING

The Board adjourned the meeting at approximately 12:35 p.m. The Board will meet again on November 10th, 2015 (tentative) in Harrisburg (Rachel Carson State Office Building, Conference Room 105).