**AGGREGATE ADVISORY BOARD (BOARD)**

**Wednesday, May 4, 2016**

**DEP Southcentral Regional Office**

**Susquehanna Conference Rooms A and B**

**Harrisburg, PA**

**VOTING MEMBERS OR ALTERNATES PRESENT:** Rep. Bryan Barbin (PA House of Representatives – Member); Richard Fox (PA Senate – Alternate – on conference call); Mike Hawbaker (Glenn O. Hawbaker and Associations/PA Aggregates and Concrete Association (PACA) – Alternate); Katie Hetherington-Cunfer (CAC, Executive Director – Alternate); Jonathan Lutz (PA House of Representatives – Alternate); Rep. Sandra Major (PA House of Representatives – Member); Bill Ruark (Meshoppen Stone, Inc. – Member); Mark Snyder (Pennsy Supply – Member; Board Co-Chairperson); John Stefanko (DEP – Executive Deputy Secretary for Programs/Acting Deputy Secretary – Active and Abandoned Mine Operations (AAMO) – Alternate; Board Chairperson); Peter Vlahos (PACA – Alternate); and Burt Waite (CAC – Member)

**Other Attendees:** Bill Allen (DEP – Mining Programs); Abbey Cadden (DEP – Policy Office); Tom Callaghan (DEP – Mining Programs, Director); Bruce Carl (DEP – Mining Programs); Laura Edinger (DEP – Policy Office); Josie Gaskey (PACA); Rachel Gleason (PA Coal Alliance (PCA) – on Openscape); Jennifer Gulden (DEP – Mining Programs); Joseph Iole (DEP – Regulatory Counsel); Shuvonna Perry (DEP – Mining Programs); Bill Plassio (DEP – District Mining Operations, Director); Paul Pocavich (DEP – Mining Programs); and Daniel E. Snowden, D.Ed. (DEP – Mining Programs; Board Liaison)

**Call to Order/Introductions**

Mr. Stefanko called the meeting to order at approximately 10:02 a.m. Board members introduced themselves, as did all DEP personnel in the audience.

**PACA ANTI-TRUST STATEMENT**

Mr. Snyder reminded the Board that the non-coal mining industry is required to abide by PACA’s anti-trust statement, both in letter and spirit. This requirement extends to industry members and alternates on the Board.

**Approval of Minutes**

The Board voted unanimously to approve the minutes from its February 18th, 2016 meeting, which had been rescheduled from its original February 3rd, 2016 date.

**Correspondence**

Mr. Stefanko inquired as to whether the Board had received any correspondence since its last meeting. Board Liaison Dr. Snowden stated that no correspondence had been received during that period.

**Committee Reports:**

Mr. Snyder reported that Board’s Regulatory, Legislative and Technical (RLT) Committee would review the Non-Coal Fees regulatory package (revised, based on the RLT Committee’s Permit Fees Recommendation Document) by holding at least two more meetings, in order to come up with a consensus on the proposed increases to Non-Coal Fees. Dr. Snowden stated that he would work with the RLT Committee to set dates these meetings, based upon the schedules of RLT Committee members.

**UPDATES**

Mr. Allen shared the following updates with the Board:

* ***Technical Guidance:*** Many of the following technical guidance documents relate to non-coal operations – most of these documents are currently undergoing revisions. These include:
* *Pre-Applications*
* *Civil Penalties*
* *Blaster’s License Suspension*
* *Processing Completion Reports*
* *Bonding – Direct Submittal of Bonds*
* *Non-Coal Underground Mine Application (this document was rescinded due to bad information, and now a new application is being developed to replace it)*
* *Beneficial Use of Sewage Sludge at Mine Sites*
* *Surface Water Protection – Underground Bituminous Coal Mining Operations (this document was listed recently)*
* *Engineering Manual (changes are being recommended)*
* *General Permit (GP) Materials*
* *Government Financed Construction Contracts (GFCCs) (this one relates to coal mining operations only)*
* ***Non-Coal Regulatory Packages:*** The regulatory agenda that involves non-coal mining matters includes the following:
* *Blaster’s Licenses (Chapter 210) and Storage, Handling and Use of Explosives (Chapter 211): these have been published for comment, and revised from the proposed rule. The regulatory package may be discussed at the August meeting of the Board, with a final rulemaking to come in March or April of 2017.*
* *Non-Coal Fees: Recommendations are sought; it was noted that the Board’s RLT Committee plans to hold meetings to discuss this topic further.*
* *Non-Coal Mining (Chapter 77): Revisions to this set of regulations is ongoing and nearing completion.*
* ***National Pollutant Discharge Elimination System (NPDES) Permitting:*** To date (March 31, 2016), 36 non-coal draft permits have been sent to the U. S. Environmental Protection Agency (US EPA), who commented on eight of these draft permits. Of the remaining 28 draft permits, 25 have been issued and three could be issued – all without comments. The remaining NPDES permitting issues that US EPA has include:
* *Checklist (still not settled, although one was listed).*
* *Effluent Characterization (these relate to detection limits – see below).*
* *Detection Limits (these are not low enough in some cases, as even minor concentrations of parameters in effluent are causing triggers).*
* *Monthly Calls to US EPA (one of these has occurred so far; additional calls will take place, based upon US EPA’s schedule).*
* *E-Reporting Rule (this is a data management tool; permit limit data results will be shared with US EPA’s reporting system by September 30, 2016).*
* *WETT (there have been 308 letters regarding this entity; the matter of concern here is that receiving streams are impaired due to effluent found at the waste streams of non-coal operations; six months of WETT testing and toxic evaluations may be needed, in order to compile a toxic reduction strategy and report).*
* ***Historical Application Progress and the Permit Decision Guarantee (PDG) (Non-Coal):*** As of March 31, 2016, 94% of the non-coal mining permits have been issued (417 of 444 permits); the remaining 6% (27 permits) remain for action. For the on-time component of the PDG program, there a 388 permits pending, with an average of 182 days elapsed. However, there are 188 permits overdue, with an average of 332 days elapsed. Also, the District Mining Offices’ (DMOs) PDG on-time performances varied, as follows (Note: to address the issue of improving on-time performance under the PDG program, Board members recommended expedited reviews to improve permit applications and, having outside entities review permit applications, due to the loss of key staff persons at some DMOs):
* *Knox DMO: 388 of 439 permits issued (90%). This DMO also has 39 permits pending, with eight overdue in the PDG program.*
* *Moshannon DMO: 215 of 273 permits issued (87%). This DMO also has 33 permits pending, with six permits overdue in the PDG program.*
* *Cambria DMO: 152 of 194 permits issued (75%). This DMO also has 34 permits pending, with six permits overdue in the PDG program.*
* *New Stanton DMO: 104 of 147 permits issued (69.2%). This DMO has 38 permits pending, with 21 permits overdue in the PDG program.*
* *Pottsville DMO: 498 of 776 permits issued (60.8%). This DMO has 244 permits pending, with 146 permits overdue in the PDG program (it was mentioned that some engineering help may be needed to address this extensive backlog).*
* ***Non-Coal Mining Fee Revenues (General):*** Between April 2015 and March 2016, general non-coal mining fee revenues from the following sources included:
* *Annual Administration Fees: $1,381,700.00*
* *Permit Application Fees: $401,910.00*
* *License Fees: $213,483.15*
* *Penalties: $116,907.00*
* *Interest: $188.313.17 (there were questions as to whether or not this figure was a consistent representation)*
* *Payments In-Lieu of Bond (PILBs): $129,999.55*
* ***Clean Water Fund (CWF) Non-Coal Mining Fee Revenues:*** The following figures cover CWF revenue for both coal and non-coal operations, for the following Fiscal Years (FY):
* *FY 2012-2013: $247,800.00*
* *FY 2013-2014: $523,296.00*
* *FY 2014-2015: $474,729.00*
* *FY 2015-2016 (through March): $552,725.00*
* ***Overview of Non-Coal Facilities:*** As of March 31, 2016, the breakdown of operating non-coal facilities in Pennsylvania (2,345) was as follows (this information was also presented graphically at the request of the Board, covering the years 2009 through 2015):
* *Small Operators (< 2,000 tons/year): 336 permitted.*
* *Small Operators (< 10,000 tons/year):1,130 permitted.*
* *Large Operators: 801 permitted.*
* *GP-105 Operators: 61 permitted.*
* *GP-103 Operators: 8 permitted.*
* *Underground Operators: 9 permitted.*
* ***Overview of Non-Coal Applications:*** For the years 2012 through 2015, the following figures applied to non-coal application types:
* *2012: 1,278 licenses (1,222 renewals and 56 new); 25 large operators (new); 33 small operators (new); 71 NPDES (17 new and 54 renewals); and 7 pre-applications.*
* *2013: 1,252 licenses (1,211 renewals and 43 new); 6 large operators (new); 25 small operators (new); 90 NPDES (11 new and 79 renewals); and 15 pre-applications.*
* *2014: 1,159 licenses (1,128 renewals and 31 new); 8 large operators (new); 37 small operators (new); 70 NPDES (20 new and 50 renewals); and 8 pre-applications.*
* *2015: 1,204 licenses (1,168 renewals and 36 new); 11 large operators (new); 41 small operators (new); 72 NPDES (13 new and 59 renewals); and 6 pre-applications.*
* ***Non-Coal Surface Mining, Conservation and Reclamation Act (NSMCRA) Fund Obligations:*** As of March 2016, the following NSMCRA fund obligations apply (Note: during this discussion, Board members inquired about matters regarding: 1*) a tracking database for the NSMCRA information; 2) Placement of non-coal revenues and expenses as they relate to the NSMCRA fund; 3) incentives to remine some quarries via the NSMCRA fund;* and *4) how much money was in the NSMCRA fund since its inception in 1984 (it is probable that the present figures in the fund could be cumulative, and date back to the original fund inception)):*
* *Cash Collateral: $2,055,457.87 (according to E-Facts ).*
* *PILB Underwritten: $2,092,597.05 (this figure includes monetary releases from other fund mechanisms).*
* *Bond Forfeiture (BF) Reclamation: Over $4.3 million (this figure is the estimate of forfeitures and the costs to reclaim mined areas, in addition to the bond amounts).*
* *NSMCRA Fund Balance (as of February 29th, 2016):*
* General Operations: $6,840,067.06
* Collateral: $1,017,391.33
* Restricted Bond: $706,517.52
* ***Non-Coal Program Bond Forfeitures:*** For the years 2010 through 2016, the numbers of small and large non-coal operators that forfeited bonds were as follows:
* *Year 2010: 8 small operators, 0 large operators.*
* *Year 2011: 1 small operator, 0 large operators.*
* *Year 2012: 11 small operators, 2 large operators.*
* *Year 2013: 15 small operators, 0 large operators.*
* *Year 2014: 32 small operators, 1 large operator.*
* *Year 2015: 34 small operators, 3 large operators.*
* *Year 2016 (to date): 8 small operators, 0 large operators.*

**NON-COAL FEE REGULATORY PACKAGE**

This agenda item was referred to the Board’s RLT Committee for further discussion during that Committee’s upcoming meetings.

**NON-COAL BOND RATE GUIDELINES**

Mr. Carl shared a schedule of proposed bond rates (to be effective in 2017) for various elements associated with non-coal operations. These elements include:

* ***Disturbed (Not Reclaimed) Areas:*** $3,500.00/acre ($1,700.00/acre select grading and $1,900.00/acre revegetation); originally $3,000.00/acre.
* ***Support Areas:*** $1,900.00/acre; originally $1,500.00/acre.
* ***Spoil Storage/Earth Moving:*** $1.20/cubic yard; originally $.90/cubic yard.
* ***Blasting (Highwall. Bench):*** Range from $10.00/linear foot (20-foot highwall/bench height) to $60.00/linear foot (> 50-foot highwall/bench height) (here, Mr. Carl mentioned the need to gather current estimates from industry).
* ***Mining of Unconsolidated Materials (related to Highwall/Bench Heights):*** Depending upon the size (35 feet, 35-65 feet, > 65 feet), these range from $1,700.00/acre (up to 35 feet of highwall) to $5,000.00/acre (> 65 feet of highwall); original range: $1,600.00/acre to $3,500.00/acre.
* ***Safety Bench (Water Impoundments):*** $1,700.00/acre; originally $1,600.00/acre.
* ***Small Non-Coal Operations (< or = 1 acre):*** $1,500.00/acre, plus $2,500.00/acre for mobilization/demobilization; originally just $1,500.00/acre.
* ***Small Non-Coal Operations – Consolidated Materials (> or = 1 acre):*** Depending upon the size (35 feet, 35-65 feet, > 65 feet), these range from $1,500.00/acre (support) to $5,000.00/acre, with an additional $2,500.00/acre for mobilization/demobilization.
* ***Small Non-Coal Operations – Unconsolidated Materials (> 1 acre):*** $3,500.00/acre; originally $3,000.00/acre.

Mr. Carl proposed a schedule for finalizing the bond rates in August 2016 and publishing these in the PA Bulletin, in October 2016. The Board voted unanimously for the RLT Committee to participate in the review of these proposed bond rates.

**NEW BUSINESS**

The following matters were discussed during this period:

* ***Quality of Non-Coal Mining Permit Applications:*** Mr. Plassio reported that while the overall procedures have improved for permit applications, the overall quality of applications submitted has not increased.   He did mention ideas for improving permit application quality (e.g., including guidelines for accepted practices; use of the pre-application process). The challenges to be met in order to improve non-coal mining permit application quality, such as staff retirements and replacements, were also discussed.  During this discussion, the Board recommended the possible use of outside consultants to participate in permit application reviews, with emphasis on locating consistent deficiencies in permit applications and working with District Mining Office Managers and Division Chiefs to determine priorities for permit application reviews.  Lastly, Mr. Plassio noted that he would be open to presenting a report at future Board meetings on a regular basis.
* ***Annual Report (2015) of the Aggregate Advisory Board:*** Ms. Gaskey shared the Board’s annual report for the year 2015. She touched upon the main features of the report, including the messages from the Board’s Chairperson (Mr. Stefanko) and Vice-Chairperson (Mr. Snyder); the legislation that created the Board (Senate Bill 1155 and Act 137 of 2014); Board membership, officers and committees; and the activities of the Board from 2015 (setting up the Board; the tour of the Pennsy Supply Millard Facility; and the discussion of non-coal permitting fees). The Board provided initial comments on the report and Ms. Gaskey stated that the report would be finalized for the next meeting.
* ***Board Field Trip – Glenn O. Hawbaker Pleasant Gap Facility:*** Mr. Hawbaker shared a presentation about his company’s quarrying and aggregate production facility in Pleasant Gap. The facility produces aggregate materials for use in applications such as asphalt, construction, concrete, power plant, block, PennDOT road and highway projects, and landscaping. There are aggregate dry and wash facilities onsite, along with an intermodal operation for the commodities produced onsite. Additional operations include three quarries, an underground mine, and a lime production plant (these operations are owned by another company, but Hawbaker mines on properties that mutually-owned by itself and the other company). As a whole, Board members and other interested parties will have a variety of operations to view at the Glenn O. Hawbaker Pleasant Gap facility. The Board also decided to hold the field trip and its quarterly meeting on the same day.
* ***The 18th Annual PA Abandoned Mine Reclamation Conference:*** Mr. Stefanko announced that this event would be held at the Indiana University of Pennsylvania (Indiana, PA) on **June 22nd and 23rd, 2016**. He referred meeting attendees to the event’s web site (<http://2016.treatminewater.com/>) for more information.

**OPEN TIME**

During this period, no questions or comments were received from the audience.

**ADJOURNMENT/NEXT MEETING**

Mr. Stefanko adjourned the meeting at approximately 12:15 p.m. The Board will meet again on **August 3rd, 2016**, at the Glenn O. Hawbaker Pleasant Gap Facility office. Following the meeting, the Board will hold its field trip at the operations of this same location. Meetings for the Board’s RLT Committee will be arranged to take place prior to the next full Board meeting.