

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

**Rachel Carson State Office Building**  
**2<sup>nd</sup> 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**, PA Aggregates and Concrete Association (PACA)  
**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 13<sup>th</sup>, 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 13<sup>th</sup>, 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. Mr. Vlahos reported that a conference call to set up the Committee occurred on July 15<sup>th</sup>, 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 one of its first tasks would include discussion of the Non-Coal Fee regulations. The Board voted unanimously to designate six 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 11<sup>th</sup>, 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 reported on 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) is being finalized in the Mining Program and will go to the Policy Office next. Ms. Hill explained that changes to the TGD 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 10<sup>th</sup>, 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 16<sup>th</sup>, 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 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 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, six 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, two of these were issued with comments and three were issued without comments. None of the permits issued were awaiting a 30-day period.

Mr. Allen also shared some findings of the June 11<sup>th</sup>, 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 information regarding 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 reported 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). 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 information 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 discussed how bond rates are calculated. Using coal site reclamation as a starting point, he mentioned the existence of reclamation contracts and taking the three lowest bids, which are then averaged out over a three-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/cubic yard. The average cost is \$.90/cubic yard for spoil grading on large non-coal sites

Mr. Carl discussed reclamation blasting costs to achieve final slope. 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/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/pond); spreading topsoil rates \$1,600/acre. Grading costs for large non-coal sites with unconsolidated materials range between \$1,600/acre to \$3,500/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. The average of these values would be 97.5 cents rounded up to \$1/cubic yard.

Mr. Carl noted 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.

### **NON-COAL FEES**

Mr. Allen provided a report on non-coal fees. He noted that the last fee schedule was finalized in October of 2012. Information on permit fees and annual administrative fees are part of this schedule. Mr. Allen also noted 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 additionally noted Non-Coal Fund obligations 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.

Mr. Allen presented Non-Coal Program costs 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 shared 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 non-coal industry's supplying high-quality limestone for use in the coal industry's acid mine drainage (AMD) treatment systems. He noted an 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](http://www.treatminewater.com).

Mr. Hughes also expressed interest in securing 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 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 30<sup>th</sup>, 2015, followed by a 45-day public comment period; three comments on the guidance were received – coming from PACA, the Marcellus Shale Coalition, and the Executive Director of the 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 prospective 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. The date of the next meeting of the Board was discussed and tentatively planned for November 10<sup>th</sup>, 2015. 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 10<sup>th</sup>, 2015 (tentative) in Harrisburg (Rachel Carson State Office Building, Conference Room 105).