

PENNSYLVANIA AGGREGATE ADVISORY BOARD

2016 ANNUAL REPORT



**AGGREGATE
ADVISORY BOARD**

P.O. Box 8461 • Harrisburg, PA 17105

Chair's Message



The Department of Environmental Protection (DEP) relies on the valuable input of its more than two dozen advisory committees in carrying out our mission to protect Pennsylvania's air, land and water from pollution and to provide for the health and safety of its citizens. The aggregates industry -- representing stone, sand and gravel, and dimensional stone -- is a vital part of Pennsylvania's economy through its strong employment base and the important role its products play in building, feeding and connecting our communities. Members of the Aggregate Advisory Board represent industry, the legislature, county conservation districts and citizens. They regularly share their expertise and knowledge with DEP on issues relating to non-coal mining. This collaborative approach results in commonsense regulations and policies built on sound science. I look forward to continuing to work with members of the board to find the most efficient ways to promote environmental compliance while fostering the growth of this most important industry.

John Stefanko
 Executive Deputy Secretary
 PA Department of Environmental Protection



Vice-Chair's Message



It is an honor to continue serving as Vice-Chair of the Aggregate Advisory Board. I commend the Department of Environmental Protection for utilizing not only this Board, but all DEP Advisory Boards. These boards play a vital role in a transparent approach to addressing issues in a manner that is effective and comprehensive for the Department, the stakeholders and the legislature. The Aggregate Advisory Board brings together industry, citizens, legislative members and the Department in a coordinated setting that allows for a free exchange of understanding, knowledge, ideas and solutions to upcoming and active challenges faced by the Commonwealth of Pennsylvania. On behalf of all members of this Board, we look forward to continuing open, candid discussions relating to noncoal mining at these Board meetings.

Mark Snyder
 President, Mid-Atlantic Region, Oldcastle Materials



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History and Purpose of the Aggregate Advisory Board

On October 25, 2013, Senator Joseph Scarnati and Senators Yaw, Kasunic, Mensch, Vulakovich, White, Alloway, Yudichak, Solobay and Costa introduced Senate Bill 1155 (Appendix A). In Senator Scarnati's Senate Memorandum dated September 10, 2013, he indicated the creation of this advisory board was to assure that the policy decisions and changes from the Department of Environmental Protection (DEP) regarding aggregate mining would be made with input from stakeholders, both from the aggregate mining industry and Pennsylvania citizens, to assure that these issues are properly vetted, and the decisions are made in a thorough and comprehensive manner.

The Aggregate Advisory Board was created by Act 137 of 2014 (Appendix B), which was signed by Governor Corbett on Sept. 24, 2014, and took effect 60 days later.

The Board was created to assist the Secretary of Environmental Protection to spend funds for the purposes provided by Section 17, "Noncoal Mining Conservation and Reclamation Fund," of the Act of Dec. 29, 1984, known as the "Noncoal Surface Mining Conservation and Reclamation Act," and to advise the Secretary on all matters pertaining to surface mining as defined in Section 3, "Definitions," of the Noncoal Surface Mining Conservation and Reclamation Act. This includes, but is not limited to, experimental practices, alternate methods of backfilling, obligations for preexisting pollution liability, alteration of reclamation plans, reclamation fees and bonding rates and methods.

At the first meeting in May 2015, the Board determined meetings would be in the months of February, May, August, and November of each calendar year.

The Act requires the Board to prepare an annual report of its activities to be submitted to the Environmental Resources and Energy Committee of the Senate and the Environmental Resources and Energy Committee of the House of Representatives.

Membership

The structure of the membership is set by the Act itself. The Board is comprised of the Secretary of DEP (chair), three aggregate surface mining operators, four members of the public from the Citizens Advisory Council, one member from county conservation districts, one Senate member from the majority party, one Senate member from the minority party, one House member from the majority party, and one House member from the minority party.

Members are appointed for a two-year term except one-half of the initial members serve for three years. The Board meets at least quarterly to carry out its duties. All actions of the Board are by majority vote. See Appendix C for the 2016 Membership list. A list of current members as well as other information can be found on DEP's website.

Officers

At the initial May 13, 2015, meeting of the Aggregate Advisory Board, then-Secretary John Quigley assigned his chair position to Executive Deputy Secretary John Stefanko, who later temporarily assigned Chairmanship of the Board to then-Chief Counsel Richard Morrison, DEP. Elected by the Board as Vice-Chair is Mark Snyder, President, Mid-Atlantic Region, Oldcastle Materials, Pennsy Supply, Inc.

Committees

At the May 2015 meeting, two Committees were formed. This included the Regulatory, Legislative and Technical Committee and the Annual Report Committee.

The purpose of the Regulatory, Legislative and Technical Committee was first discussed at the May 2015 meeting and the following purpose was ultimately approved:

“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.”

The purpose of the Annual Report Committee is to fulfill the requirement of the Act for an annual report of the Board’s activities. This report is to be submitted to the Environmental Resources and Energy Committee of the Senate and, the Environmental Resources and Energy Committee of the House of Representatives.

At the May 2015 Board meeting, the Board voted unanimously to designate six persons to serve as members of the Regulatory, Legislative and Technical Committee: Representative Bryan Barbin; Paul Detwiler, III; Richard Fox; William Ruark; Mark Snyder; and Thaddeus Stevens. Additionally, Robert Hughes is also designated as a member of the Committee.

The noncoal mine permit fees are currently required to be evaluated every three years under 25 PA Code Chapter 77. DEP is proposing to increase these fees and this issue was assigned to the Regulatory, Legislative and Technical Committee with a request to provide the full Board with a recommendation.

2016 Meetings

Full Board meetings were held on February 18, 2016; May 4, 2016; August 3, 2016; and November 2, 2016. A tour of Glenn O. Hawbaker aggregate facility was held on August 3, 2016 in conjunction with the August 3, 2016 meeting. Meeting minutes can be found on DEP’s website and Appendix E of this report.

The Regulatory, Legislative and Technical Committee met on January 19, 2016; June 9, 2016; June 30, 2016; and September 28, 2016, to continue discussion the mine permit fees issue.

During all full Board meetings of 2016, the Board received general updates on noncoal mining matters related to updates from the Bureau of Mining Programs (BMP: regulatory and non-regulatory agendas; National Pollutant Discharge Elimination System (NPDES) permitting; program overviews (facilities and applications); Noncoal Surface Mining Conservation and Reclamation Act (NCSMCRA) Fund Obligations (including revenues and expenditures); and, Bonding and Bond Forfeitures. The Board also received regular updates from the Bureau of District Mining Operations (BDMO).

Major Activity

In 2016, the Aggregate Advisory Board:

- Prepared its initial Annual Report, covering the 2015 calendar year.
- Learned about various aspects of DEP's Office of Water Programs.
- Developed a Noncoal Permitting Fees Document that included the following elements for the DEP to consider:
 - *Stakeholders: pay equal percentages of their respective shares of Mining Program costs.*
 - *Administrative Fees (Noncoal – General)*
 - *Administrative Fees (Noncoal – Forfeited Sites)*
 - *Permit Fees (Noncoal)*
 - *Government Infrastructure Costs*
 - *Assessment of variable costs only (noncoal and coal) for their respective portions involving reviews, administration and enforcement in the Mining Program.*
 - *An annual Mining Program financial statement report.*
 - *Deduction of new industry revenues from any revenues generated via Mining Program permit fees.*
- Developed a Recommendation Document and, a Permitting Fees Framework Document that included the following elements for the DEP to consider:
 - *Karst Geology*
 - *Management of the Non-Coal Program*
 - *Expedited Review of Permit Applications*
 - *Acceptance of Professional Engineer (PE) or Professional Geologist (PG) Stamp on Permit Modules*
 - *Transparency of Information used in Permit Reviews*
 - *Permit Review Payment and the Permit Decision Guarantee (PDG) Program*
 - *Annual Report and Permit Fee Index; Site Inspections; Consultant Qualifications; and*
 - *Full-Cost Bonding and Bond Releases).*

These activities led to the Aggregate Advisory Board's accepting the DEP's the proposed January 2016 Non-Coal Fees Regulatory package with the understanding that the RLT Committee's Recommendation and Permitting Fees Framework Documents would be considered in the further development of this regulatory package.

- Adopted a logo design with images of the sun, a "mountain" (depicted for non-coal mining) and a green hill, all cradled by a leaf. This logo design will be used as the heading on any correspondence the Board may send in the future.

As part of the August 3, 2016 meeting, Glenn O. Hawbaker, Inc. hosted members of the Board, the DEP Department of Active and Abandoned Mine Operations, and the Citizens Advisory Council for a tour of its Pleasant Gap operation. 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).

Appendix A - Senate Bill 1155

PRIOR PRINTER'S NOS. 1529, 1806

PRINTER'S NO. 2112

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1155 Session of
2013

INTRODUCED BY SCARNATI, YAW, KASUNIC, MENSCH, VULAKOVICH, WHITE,
ALLOWAY, YUDICHAK, SOLOBAY AND COSTA, OCTOBER 25, 2013

SENATOR CORMAN, APPROPRIATIONS, RE-REPORTED AS AMENDED, JUNE 9, 2014

AN ACT

Amending the act of May 31, 1945 (P.L.1198, No.418), entitled, as amended, "An Act providing for the conservation and improvement of land affected in connection with surface mining; regulating such mining; providing for the establishment of an Emergency Bond Fund for anthracite deep mine operators; and providing penalties," establishing the Aggregate Advisory Board.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 18 of the act of May 31, 1945 (P.L.1198, No.418), known as the Surface Mining Conservation and Reclamation Act, is amended by adding a subsection to read:

Section 18. Surface Mining Conservation and Reclamation Fund; Remining Environmental Enhancement Fund; Remining Financial Assurance

Fund; Department Authority for Awarding of Grants.--* * *

(g.1) There is hereby created an Aggregate Advisory Board to assist the secretary to expend the funds for the purposes provided by section 17 of the act of December 19, 1984 (P.L.1093, No.219), known as the "Noncoal Surface Mining Conservation and Reclamation Act," and to advise the secretary on all matters pertaining to surface mining, as defined in section 3 of the "Noncoal Surface Mining Conservation and Reclamation Act," which shall include, but not be limited to experimental practices, alternate methods of backfilling, obligations for preexisting pollution liability, alteration of reclamation plans, reclamation fees and bonding rates and methods. The board shall function as follows:

(1) The board shall be comprised of the secretary; three (3) aggregate surface mining operators; four (4) public members from the Citizens Advisory Council, who shall be appointed by the council; one (1) member from the County Conservation Districts, who shall be appointed by the State Conservation Commission; four (4) members of the General Assembly, two (2) from the Senate, one (1) member from the majority party and one (1) member from the minority party, who shall be appointed by the President pro tempore, and two (2) from the House of Representatives, one (1) from the majority party and one (1) from the minority party, who shall be appointed by the Speaker of the House of Representatives.

(2) The secretary shall chair the Aggregate Advisory Board and appoint the members from the aggregate industry.

(3) All members shall be appointed for a term of two (2) years, except that one-half of the initial members shall serve for

three (3) years.

(4) All actions of the board shall be by majority vote. The board shall meet upon the call of the secretary, but not less than quarterly, to carry out its duties under this act. The board shall select from among its members a chairperson and such other SUCH officers as it deems appropriate.

(5) The board shall prepare an annual report on its activities and submit the report to the Senate Environmental Resources and Energy Committee and the House Environmental Resources and Energy Committee.

* * *

Section 2. This act shall take effect in 60 days.

Appendix B – Act 137 of 2014

SURFACE MINING CONSERVATION AND RECLAMATION ACT - AGGREGATE ADVISORY BOARD

Act of Sep. 24, 2014, P.L. 2480, No. 137

Cl. 52

Session of 2014

No. 2014-137

SB 1155

AN ACT

Amending the act of May 31, 1945 (P.L.1198, No.418), entitled, as amended, "An act providing for the conservation and improvement of land affected in connection with surface mining; regulating such mining; providing for the establishment of an Emergency Bond Fund for anthracite deep mine operators; and providing penalties," establishing the Aggregate Advisory Board.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 18 of the act of May 31, 1945 (P.L.1198, No.418), known as the Surface Mining Conservation and Reclamation Act, is amended by adding a subsection to read:

Section 18. Surface Mining Conservation and Reclamation Fund; Remining Environmental Enhancement Fund; Remining Financial Assurance Fund; Department Authority for Awarding of Grants.--* * *

(g.1) There is hereby created an Aggregate Advisory Board to assist the secretary to expend the funds for the purposes provided by section 17 of the act of December 19, 1984 (P.L.1093, No.219), known as the "Noncoal Surface Mining Conservation and Reclamation Act," and to advise the secretary on all matters pertaining to surface mining, as defined in section 3 of the "Noncoal Surface Mining Conservation and Reclamation Act," which shall include, but not be limited to, experimental practices, alternate methods of backfilling, obligations for preexisting pollution liability,

alteration of reclamation plans, reclamation fees and bonding rates and methods. The board shall function as follows:

(1) The board shall be comprised of the secretary; three (3) aggregate surface mining operators; four (4) public members from the Citizens Advisory Council, who shall be appointed by the council; one (1) member from the County Conservation Districts, who shall be appointed by the State Conservation Commission; and four (4) members of the General Assembly, two (2) from the Senate, one (1) member from the majority party and one (1) member from the minority party, who shall be appointed by the President pro tempore, and two (2) from the House of Representatives, one (1) member from the majority party and one (1) member from the minority party, who shall be appointed by the Speaker of the House of Representatives.

(2) The secretary shall chair the board and appoint the members from the aggregate industry.

(3) All members shall be appointed for a term of two (2) years, except that one-half of the initial members shall serve for three (3) years.

(4) All actions of the board shall be by majority vote. The board shall meet upon the call of the secretary, but not less than quarterly, to carry out its duties under this act. The board shall select from among its members such officers as it deems appropriate.

(5) The board shall prepare an annual report on its activities and submit the report to the Environmental Resources and Energy Committee of the Senate and the Environmental Resources and Energy Committee of the House of Representatives.

* * *

Section 2. This act shall take effect in 60 days.
APPROVED--The 24th day of September, A.D. 2014.

TOM CORBETT

Patrick J. McDonnell, Chairperson Secretary PA Department of Environmental Protection 400 Market Street, 16 th Floor P. O. Box 2063 Harrisburg, PA 17105-2063	William M. Ruark Meshoppen Stone, Inc. 524 SR 4015 Meshoppen, PA 18630
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Appendix C – Membership List

AGGREGATE ADVISORY BOARD MEMBERS (As of February 2016)

<p>The Honorable Bryan Barbin PA House of Representatives 4 East Wing P O Box 202071 Harrisburg, PA 17120-2071</p>	<p>Mark Snyder, Vice-Chairperson Pennsy Supply, Inc. 1001 Paxton Street Harrisburg, PA 17104</p>
<p>Thomas J. Bryan, III Tri-State River Products, Inc. 100 South 3rd Street Pittsburgh, PA 15219-1128</p>	<p>Thaddeus K. Stevens Citizens Advisory Council Sylvan Glen, Inc. Sylvan Glen Road P.O. Box 61 Gaines, PA 16921</p>
<p>Terry L. Dayton Citizens Advisory Council Dayton Environmental 430 Lippencott Run Road Waynesburg, PA 15370</p>	<p>Burt A. Waite Citizens Advisory Council Moody and Associates, Inc. 11548 Cotton Road Meadville, PA 16314</p>
<p>Walter N. Heine Citizens Advisory Council Walter N. Heine Associates, Inc. 67 Graham Road Newville, PA 17241</p>	<p>The Honorable Gene Yaw PA Senate Room: 362 Main Capitol Senate Box 203023 Harrisburg, PA 17120-3023</p>
<p>Robert Hughes Eastern PA Coalition for Abandoned Mine Reclamation 101 South Main Street Ashley, PA 18706</p>	<p>The Honorable John Yudichak PA Senate Senate Box 203014 Room: 458 Main Capitol Harrisburg, PA 17120-3014</p>
<p>The Honorable Sandra Major PA House of Representatives 120 Main Capitol Building PO Box 202111 Harrisburg, PA 17120-2111</p>	

**AGGREGATE ADVISORY BOARD ALTERNATES
 (as of February 2016)**

<p>John Stefanko, Deputy Secretary Active and Abandoned Mine Operations PA Department of Environmental Protection 400 Market Street, 16th Floor P. O. Box 2063 Harrisburg, PA 17105-2063</p>	<p>Jonathan Lutz, Executive Director PA House of Representatives Environmental Resources and Energy Committee 237 Ryan Office Building PO Box 202060 Harrisburg, PA 17120-2060</p>
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<p>Paul Detwiler, III New Enterprise Stone and Lime Co. 3912 Brumbaugh Road P. O. Box 77 New Enterprise, PA 16664</p>	<p>Adam Pankake, Executive Director PA Senate Environmental Resources and Energy Committee Room 362 Main Capitol Building PO Box 203023 Harrisburg, PA 17120-3023</p>
<p>Richard Fox, Executive Director PA Senate Environmental Resources and Energy Committee Room 458 Main Capitol Harrisburg, PA 17120-3014</p>	<p>Todd Schmidt, P. E. Fox Engineering, PC 857 Main Street New Milford, PA 18834</p>
<p>D. Michael Hawbaker Glenn O. Hawbaker, Inc. 1952 Waddle Road State College, PA 16803</p>	<p>Patricia Tamayo, Legislative Assistant PA House of Representatives 4 East Wing P O Box 202071 Harrisburg, PA 17120-2071</p>
<p>Katherine Hetherington-Cunfer Acting Executive Director Citizens Advisory Council PO Box 8459 13th FL, RCSOB Harrisburg, PA 17105-8459</p>	<p>Peter Vlahos, President PA Aggregates and Concrete Association 3509 North Front Street Harrisburg, PA 17110</p>
<p>Michael Hewitt, Program Manager Eastern PA Coalition for Abandoned Mine Reclamation 101 South Main Street Ashley, PA 18706</p>	

Appendix D

AGGREGATE ADVISORY BOARD

BYLAWS

(Adopted May 13, 2015)

ARTICLE I Authorization

The Aggregate Advisory Board is authorized and organized pursuant to Section 18(g.1) of the Pennsylvania Surface Mining Conservation and Reclamation Act (the act of May 31, 1945 (P.L.1198, No.418), as amended by Act 137 of 2014) (52 P.S. § 1396.18).

ARTICLE II Purpose

The purpose of the Aggregate Advisory Board is to assist the Secretary of the Department of Environmental Protection to expend the funds for the purposes provided by Section 17 of the Act of December 19, 1984 (P.L.1093, No. 219), known as the “Noncoal Surface Mining Conservation and Reclamation Act,” and to advise the Secretary on all matters pertaining to surface mining, as defined in Section 3 of the “Noncoal Surface Mining Conservation and Reclamation Act,” which shall include, but not be limited to, experimental practices, alternate methods of backfilling, obligations for pre-existing pollution liability, alteration of reclamation plans, reclamation fees and bonding rates and methods.

ARTICLE III Members

The Board shall be comprised of:

- The Secretary of the Department of Environmental Protection (Secretary),
- Three aggregate surface mining operators, who shall be appointed by the Secretary,
- Four members of the Citizens Advisory Council, who shall be appointed by the Council,
- One member from the County Conservation Districts, who shall be appointed by the State Conservation Commission,
- Four members of the General Assembly:
 - Two from the Senate:
 - One from the majority party and one from the minority party, both of who shall be appointed by the President Pro Tempore,
 - Two members from the House of Representatives:
 - One from the majority party and one from the minority party, both of who shall be appointed by the Speaker of the House of Representatives,

Board members may designate an official alternate. The Chair shall be notified, in writing, of such alternate.

The Chair is the Secretary of the Department of Environmental Protection or his departmental designee. All other members shall be appointed for a term of two years, except that one-half of the initial members shall serve for three years. Members may be reappointed.

The Board may recommend to the appointing authority removal of any member not attending, or not represented by a designee, at two consecutive board meetings in a year.

ARTICLE IV Officers

The officers of the Board shall be the Chair and a Vice Chair. The election of a Vice Chair, by majority vote of the Board members present, shall take place at the first meeting of the Board every two years. The term shall begin immediately upon election. In the event the Vice Chair resigns from said office or ceases to be a member of the Board, an election shall be held to fill that seat for the remainder of the Vice Chair's unexpired term.

It shall be the duty of the Chair to preside at all meetings of the Board, call special meetings, prepare and distribute the meeting agenda in consultation with the Department, and perform other such duties as pertain to the office.

It shall be the duty of the Vice-Chair to perform the duties of the Chair in his/her absence. The Vice Chair shall also assist the Chair in the performance of such duties as may be assigned by the Chair.

ARTICLE V Committees

The Board may establish committees, as deemed necessary, with each committee assigned specific mission when it is formed.

Committees shall be established by a majority vote of those members attending a regular or special meeting of the Board.

The committee chair shall be selected by its members. The committee chair will be responsible for calling committee meetings, requesting needed assistance from the Department, and reporting to the Board. The committee chair shall receive necessary program and administrative support from the Department.

The Board Chair shall appoint a committee to prepare the Annual Report, as mandated by Section 18(g.1) of the Pennsylvania Surface Mining Conservation and Reclamation Act, to be submitted to the Senate Environmental Resources and Energy Committee and the House Environmental Resources and Energy Committee.

A listing of the committees and their statements of purpose shall be maintained as an Appendix to these bylaws. Changes to the Appendix shall not constitute a change to the bylaws.

ARTICLE VI Voting

Each member of the Advisory Board shall be entitled to exercise one vote in each matter placed before the Advisory Board for which a vote is called. Decisions of the Advisory Board shall be by vote

of the majority. A majority of the Board members constitutes a quorum and no voting shall be done without a quorum. Votes must be made by the member or their designated official alternate; voting will not be done in absentia, by proxy or by stand-in representatives.

In the event that the position of the Advisory Board must be determined and a meeting cannot reasonably be rescheduled, members may participate in the meeting and vote by telephone conference call or other electronic means.

ARTICLE VII DEP Administration

Representatives from the Office of Active and Abandoned Mine Operations shall provide program liaison and administrative support to the Aggregate Advisory Board. Program liaison support shall include framing of issues for the Advisory Board, providing necessary information for Advisory Board discussions, and assisting with the development of agendas, projects and meeting schedules.

Administrative support shall be performed by an employee designated by the Department. It shall be his/her duty to function as the recording and corresponding assistant, as assigned by the Department. Included among these duties shall be:

- To give public notice of the meetings and agendas for the Board and the committees two weeks in advance on the Department's website, and by email to Board members.
- To record full Board minutes and keep a permanent file of the minutes of meetings of the Board and committees. Minutes of the meetings of the Board and of Committees shall be distributed to the full membership of the Board. Minutes should be reviewed by the Board Chair and/or committee chair prior to distribution.
- To conduct both outgoing and incoming correspondence and to maintain a permanent file of such correspondence.
- To review and approve travel and subsistence expenses.
- To perform other such duties as may be requested by the Board.

ARTICLE VIII Meetings

Meetings of the Board shall be open to the public and shall be held at least quarterly or at the call of the Chair.

A majority of the Board members shall constitute a quorum. A majority of the members present at a meeting of the Board may act for the full Board. The Chair shall have the same rights, privileges and obligations as all Board members.

Members who miss two or more consecutive meetings of the Board may be recommended by the Board to the Secretary for removal from the Board.

ARTICLE IX
Amendments of Bylaws

The Bylaws may be amended at any meeting of the Advisory Board by two-thirds majority vote of the members of the Board present at the meeting, provided there is quorum, and that written notice of such change has been sent to each member at least one month prior to the meeting.

ARTICLE X
Board Representation

The Board shall act as a body in all matters before it and only the Chair or his or her designee, or the Board's designee, shall speak on behalf of the Board.

ARTICLE XI
Parliamentary Authority

On items not covered by these Bylaws, Robert's Rules of Order shall be the final authority.

Appendix E - 2016 Meeting Minutes

AGGREGATE ADVISORY BOARD (BOARD)

Thursday, February 18, 2016

Harrisburg, PA

Rachel Carson State Office Building
10th Floor Conference Room

VOTING MEMBERS OR ALTERNATES PRESENT: John Stefanko, Department of Environmental Protection (DEP): Acting Deputy Secretary, Office of Active and Abandoned Mine Operations (Alternate, Chairman); Representative Bryan Barbin, PA House of Representatives (Member); Richard Fox, Executive Director, Senate Environmental Resources and Energy Committee (Alternate); D. Michael Hawbaker, Glenn O. Hawbaker, Inc. (Alternate); Walter Heine, Citizens Advisory Council (CAC) (Member); Katherine Hetherington-Cunfer, Acting Executive Director of the CAC (Alternate); 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 (Member); Todd Schmidt, PA Bluestone Association (Alternate); Thaddeus Stevens, CAC (Member); Mark Snyder, Pennsy Supply, Inc. (Member, Vice-Chairman); Peter Vlahos, PA Aggregate and Concrete Association (PACA) (Alternate); and Burt Waite, CAC (Member)

OTHER ATTENDEES: Thomas Callaghan, DEP Bureau Director, Mining Programs; William Allen, DEP, Bureau of Mining Programs; Bruce Carl, DEP, Bureau of Mining Programs; Tammy Cree, DEP, Office of Active and Abandoned Mine Operations; Laura Edinger, DEP Policy Office; Glenn Florence, DEP, Office of Active and Abandoned Mine Operations; Josie Gaskey, PACA; Jennifer Gulden, DEP, Bureau of Mining Programs/Aggregate Advisory Board Clerical Support; Sharon Hill, DEP, Bureau of Mining Programs; Matthew McClure, Specialty Granules, Inc.; Shuvonna Perry, DEP, Bureau of Mining Programs/Aggregate Advisory Board Administrative Support; Paul Pocavich, DEP, Bureau of Mining Programs; and Daniel E. Snowden, D.Ed., DEP Bureau of Mining Programs/Aggregate Advisory Board Liaison

CALL TO ORDER/INTRODUCTIONS: Board Chairman Stefanko called the meeting to order at approximately 10:05 a.m. Board members, alternates and other attendees also introduced themselves at this time.

APPROVAL OF MINUTES: Board members mentioned that the minutes from the November 10, 2015 meeting should include the action item on the need for an update from the Bureau of Abandoned Mine Reclamation (BAMR) regarding its reclamation grant program was requested and, for BAMR to provided continued updates on this topic at future Board meetings. Once this change was noted, the Board unanimously voted to approve the minutes from the November 10, 2015 meeting.

CORRESPONDENCE: No correspondence was reported to the Board.

COMMITTEE REPORTS: Mr. Snyder provided an update from the Board's Regulatory, Legislative and Technical (RLT) Committee. The RLT Committee met shortly before the full Board to continue a discussion of changes to noncoal permitting fees. The meeting resulted in the creation of a Noncoal Permitting Fees document, which was approved by the Committee. The main points of the Noncoal Permitting Fees document included the following for the DEP to consider:

- Stakeholders: pay equal percentages of their respective shares of Mining Program costs.
- Administrative Fees (Noncoal) = Salary rate + 37% benefit cost X Average total number of noncoal sites (over past 3 years).

- Administrative Fees (Noncoal – Forfeited Sites): covered by funds appropriated by the PA General Assembly.
- Permit Fees (Noncoal) = Average number of hours X Average salary of Department's permit reviewers and administrative support + 37% benefit cost.
- Government Infrastructure Costs: cover by general funds appropriated by the PA General Assembly.
- Assessment of variable costs only (noncoal and coal) for their respective portions involving reviews, administration and enforcement in the Mining Program.
- An annual Mining Program financial statement report.
- Deduction of new industry revenues from any revenues generated via Mining Program permit fees. Upon further discussion of the provisions of the Noncoal Permitting Fees document, Board members voted to table the document for further discussion and possible finalization at special meetings - scheduled for both of the Committee and the full Board.

PROPOSED TECHNICAL GUIDANCE DOCUMENT (TGD) REVISION (PRE-APPLICATION REVIEW): Ms. Hill presented revisions to DEP Technical Guidance 563-211-214 (Coal Surface Mining Activity Permit Pre-Application Review). The revisions relate to the inclusion of information for noncoal mining permits, along with updates to the coal mining permit process. The revised TGD is slated to be presented to all advisory boards in February 2016, with publication (draft form) and public comment to follow in April 2016 and, final publication in September 2016.

PROFESSIONAL LICENSURE AND PERMIT REVIEW: Ms. Hill presented on the roles of permit applicants and DEP regarding to Professional Engineer (PE)- and Professional Geologist (PG)-licensed work, in the context of shortening permit review times. Ms. Hill outlined DEP's responsibilities under Chapter 77 (i.e., collecting and evaluating public comments; holding hearings; making written findings; waiving and determining; evaluating impacts). Permitting decisions were also noted (i.e., written findings: criteria for permit approval or denial; legal obligation to ensure that a noncoal mining project complies with laws and regulations; no presumptive evidence of pollution). Ms. Hill covered similar responsibilities for consultants (i.e., gathering and compiling data and plans; addressing any environmental consequences of proposed activities). The differences between PE and PG sealed submittals (both requiring licensure by law; PG: data collection, interpretation and prediction; PE: design standards – done per accepted specifications and best practices) were also addressed, with a PG example included for groundwater hydrology. Ms. Hill described the complexity of permit reviews for both applicants/consultants (i.e., interpretation, reviewing for errors, professional judgment – all related to making claims regarding prediction of pollution) and DEP (i.e., use of relevant additional information – assessing information that is contrary to pollution prediction claims; fair consideration of comments and input from other sources; historic/current complaint investigations; records of staff institutional and historical knowledge; confidential information). Ms. Hill explained conflicts of interest regarding permit applications from consultants (i.e., ethics act/disclosure of interest; bias; employment by mining companies; defending work upon permit appeals). She explained that the preparation of permit applications by licensed PEs or PGs (portions as applicable) does not guarantee automatic approvals. Ms. Hill noted several streamlining options for permit applications (i.e., pre-application meetings; formulation of suitable general permits; data submittal options (e.g., spreadsheets); modifying DEP's standard operating procedures; agency pre-approvals (e.g., zoning; public concerns; water loss potential; protected species; historical issues). She included some items that could be tailored for automatic approval, as they have standards that currently fit the regulations (i.e., erosion and sedimentation plans; general permits – both still have liability issues associated with them).

UPDATES: Mr. Allen provided the following updates: Technical Guidance Document (TGD) Update Mr. Allen provided status reports for TGDs:

- Pre-Applications (this TGD is being revised to include noncoal information).
- Engineering Manual (this TGD is still with Regulatory Counsel, but will be routed for approval to post).

- Blaster's License Suspension (this TGD is being finalized for approval; finalization is expected by early summer 2016 – replacement of the matrix with a point system will be part of this TGD).
- Coal Ash (this TGD is with Regulatory Counsel).
- General Permit (GP) Materials (this TGD is with Regulatory Counsel).
- Civil Penalties (this TGD will be posted for comment soon).
- Government-Financed Construction Contracts (GFCCs) (this TGD is with Regulatory Counsel).
- Reclamation Fill (this TGD was finalized on December 19, 2015).
- Other TGDs under Consideration (i.e., Beneficial Use of Sewage Sludge; Stream Protection from Underground Mining; Permit Transfers; Noncoal Underground Mining Applications; Processing Completion Reports (Bond Releases).

REGULATORY UPDATE: Mr. Allen reported that the changes to the regulations regarding Blasting and Explosives (25 PA Code, Chapters 210 and 211) were published on February 27, 2016 and, were undergoing a 30-day public comment period and review by the Independent Regulatory Review Commission (IRRC). He also mentioned the Noncoal Fees (ongoing discussion) and the Noncoal Program regulations (25 PA Code, Chapter 77) would not be taken up at the present time. National Pollution Discharge Elimination System (NPDES) Permitting Update Mr. Allen reported that 32 noncoal draft NPDES permits had been sent to the United States Environmental Protection Agency (US EPA) for review and, that the US EPA had commented or objected to eight of these draft permits. To date, six draft permits have been issued and two such permits could be issued, with US EPA comments; also, 21 such permits have been issued and three permits could be issued, without US EPA comment (including 16 “no comment” letters).

Even with this progress, there are still some NPDES permitting issues between PA DEP and US EPA:

- Checklist (permit applications are slated to include this element, but more questions remain).
- Effluent Characterization (this involved detection limits – some of the data submitted show higher parameter levels than these limits, making it unreliable).
- Monthly Calls (these will be reinstated).
- US EPA Staff Turnover (this occurs on a regular basis – when new persons come into the NPDES program at US EPA, they often take new angles on dealings with States).
- Meeting from December 15, 2015 (this was about permit reviewers' engaging in the monthly call process to resolve issues).
- Electronic Reporting Rule (there is a new database to manage discharge monitoring reports, allowing for electronic submissions).

Permit Decision Guarantee (PDG) Update: Mr. Allen reported that 413 out of 444 noncoal mining permits (93%) had been disposed in 2015 (all from the Pottsville District Mining Office (DMO)) and, that 31 remained for action (including 17 renewals). He also shared on-time percentages among DMOs with processing noncoal permit applications – these ranged from a low of 64.2% (Pottsville DMO) to a high of 91.1% (Knox DMO). At this time, Board members inquired as to whether the number applications returned or denied were reported together; it was recommended that Bill Plassio, DMO Director, be brought in to explain these statistics in greater detail. Mr. Allen provided a breakdown of PDG applications completed on time in 2015 (i.e., 334 applications pending – 31 small operator; 61 large operator; 156 NPDES; 86 miscellaneous; all averaging 203 days for review) and those overdue during the same period (i.e., 200 applications pending – 11 small operator; 32 large operator; 107 NPDES; all averaging 305 days for review). The DMOs were compared for overdue PDG applications, and the ranges were a low of 238 days for the Cambria DMO to a high of 326 days for the Pottsville DMO. Board members recommended that PA DEP create a table that shows the progress of such applications for a single year.

Noncoal Fund Update: Mr. Allen reported on revenues collected in 2015 for the Noncoal Fund. Noncoal fee revenues were mentioned, with \$667,200.00 collected in administrative fees; \$171,595.00 in collected permitting fees; and \$85,243.90 collected in licensing fees. Mr. Allen also reported on additional revenues collected for the Noncoal Fund, from penalties (\$80,275.00 collected – 5% of this total (4,013.75) is set aside for the Environmental Education fund, making the actual penalties collection total \$76,261.25); interest (\$82,576.37 collected); and PILBs (\$39,721.41 collected). Mining revenues from the Clean Water Fund (CWF) were also mentioned, ranging from \$247,800.00 in fiscal year 2012-2013 to \$328,221.00 in fiscal year 2015-2016 (as of December 2015).

Noncoal Program Overview/Bonding and Bond Forfeitures Update: Mr. Allen provided some particulars for the noncoal program in terms of facilities (i.e., 9 underground mines; 9 GP 103; 54 GP 105; 809 large operator; 333 small operator (< 10,000 tons/year) and 1,143 small operator (< 2,000 tons/year); applications (i.e., 1,185 licenses; 9 new permits (large operator); 40 new permits (small operator); 13 new NPDES permits and 54 NPDES renewals; and 7 pre-applications). Mr. Allen also covered the Noncoal Surface Mining Conservation and Reclamation Act (NCSMCRA) Fund Obligations in 2015 (i.e., cash collateral: \$2,055,457.87; PILB underwritten; \$2,092,597.05; and Bond Forfeiture Reclamation: \$4.3 million) and the NSMCRA Fund Balance elements (i.e., General Operations: \$6,893,735.36; Collateral: \$1,479,098.98; and Restricted Bonds: \$706,517.52). Finally, Mr. Allen mentioned Bond Forfeitures (these ranged from 8 small operators and 0 large operators in 2010 to 34 small operators and 3 large operators in 2015).

PAYMENT IN LIEU OF BOND (PILB): Mr. Allen reported on the status of noncoal PILB permit cases. He began by presenting some statistics on the matter (i.e., 29 permits – 22 large operators, 1 small operator, 2 GP104 and 4 STEN; all underwritten for \$1,982,351.05, with 4 forfeitures (see below) and, revenues of \$1.8 million (since 1985). Mr. Allen described the PILB payment history, from FY 2008-2009 to FY 2001-2015, via a comparison between revenue deposits and E-Facts. Discrepancies between these reporting types (ranging from around \$3.00 to slightly over \$20,000.00) are related to the time lags as to when the entries show up in the reports. It was also noted that the four PILB forfeiture sites (Gerhard Road Materials (reclaimed); Pocono Excavating, Inc. (awaiting reclamation); Melvin Meinhart (awaiting reclamation); and USA Energy (awaiting reclamation)) made combined payments of \$27,303.72. Additionally, it was reported that the reclaimed PILB site (Gerhard Road Materials) had reclamation costs of \$41,718.00 (restricted bonds - with \$932.00 spent on mapping and related preparations) and \$40,452.00 (general operations).

NONCOAL BONDING RATES: Mr. Carl presented information about how bond amounts are calculated for noncoal mining operations. The presentation was extensive, as it served as the first time that actual noncoal bonding rates were fully available. He first explained that the noncoal bond rates were based on 2010 coal bond rates and industry estimates and, that these rates were subject to revision via notice in the Pennsylvania Bulletin. Mr. Carl shared a general methodology of how the bond rates were applied to the large noncoal sites (i.e., flat acre rate for grading and revegetation; also accounts for spoil storage, backfilling, demolition, highwall blasting and slope reclamation for the mining of consolidated materials below the water table). Mr. Carl also discussed lateral phase mining, where operators have the option of bonding permit areas by phase. Bond liability is for the maximum portion of the permit area that the permittee is authorized to disturb at any time. Mr. Carl discussed per-acre rates, which amount to \$3,000.00/acre for noncoal mining areas (including select grading and revegetation). Previous coal rates (2010) for these activities were \$1,150.00/acre (select grading) and \$1,615.00/acre (revegetation), along with \$1,500.00/acre for select areas (revegetation included). Bond rates for spoil storage and earthmoving were also mentioned, at \$.90/cubic yard (grading – backfilling and other earthmoving for spoil) – the rate, again, was based on the 2010 coal grading

averages (\$.80/cubic yard (< 500 feet) and \$1.00/cubic yard (> 500 feet). Mr. Carl discussed bonding rates for additional items (mostly based on 2010 coal industry estimates, except where noted): blasting - between \$10.00/linear foot of highwall (up to 20 feet) and \$60.00/linear foot of highwall (the blasting highwall estimates were actually based on 2010 explosives industry estimates); pond reclamation: \$3,800.00 apiece; junk tire removal: \$300.00 apiece; mobilization costs – at 4% of \$40,000.00 maximum; structure demolition costs; and non-bonding for structures with post-mining land use. He also provided some specifics for bonds covering both large noncoal sites (i.e., at \$1,600.00/acre for sites mining above and below the water table and, selective grading coverage for impoundment slopes/safety benches; highwall grading – between \$1,600.00/acre (35 feet) and \$3,500.00/acre (> 65 feet); safety benches – at \$1,600.00/acre or, \$.90/cubic yard for using unmarketable materials for reclamation) and small noncoal sites (i.e., reclamation at 1 acre reclaimed/1 acre affected – at \$1,500.00/acre when permittee is authorized to disturb areas at specific times; unconsolidated materials: \$3,000.00/acre; consolidated materials: between \$1,500.00/acre and \$5,000.00/acre (for sites > 1 acre). Mr. Carl reported that the current noncoal bond rate summaries for 2015 include: grading – between \$.90/cubic yard (< 500-foot push) and \$1.50/cubic yard (> 500-foot push/haul); selective grading at \$1,700.00/acre; and revegetation at \$1,900.00/acre. It was recommended that a task force (spearheaded by PACA or another noncoal industry entity) should be established to address revising the noncoal bond rates from 2010 to current costs.

NEW BUSINESS: The following topics were mentioned:

- Aggregate Advisory Board Annual Report: Ms. Gaskey stated that this report was 90% complete, and would be available for discussion at the next Board meeting (May 4, 2016).
- Field Trip Options: Mr. Hawbaker shared the option of having the Board visit a noncoal mining operation in Pleasant Gap, PA (just outside of State College, PA) for its August field trip (8-2-16), followed by its regular meeting (8-3-16). The Board voted unanimously to accept this field trip invitation.

OPEN TIME: Topics covered during this time include:

- Scheduling of the special meetings for the full Board and its RLT Committee: Mr. Snyder mentioned the need for another RLT Committee meeting, followed by a full Board meeting – all regarding the Noncoal Permitting Fees document, which the Board had tabled earlier. Dr. Snowden mentioned that he would contact Board members and alternates and, RLT Committee members with several dates to choose from.
- Department of Conservation and Natural Resources (DCNR) and its PA Natural Diversity Index (PNDI): Ms. Gaskey inquired about the PNDI and, whether it would be feasible to have a representative from DCNR speak about it during a future Board meeting. The matter of interest here was endangered species. Mr. Stefanko stated that DEP does have an individual who is familiar with the PNDI – Ann Roda – who would be available to speak about PNDI issues (endangered species and otherwise) with the Board, upon request.
- Director, DEP Bureau of Deep Mine Safety: Mr. Vlahos inquired as to whether the DEP Bureau of Deep Mine Safety had a director. Mr. Stefanko stated that Craig Carson serves in this capacity for DEP.
- Quality of Noncoal Mining Permit Applications: Board members inquired as to when the Board would hear about this topic, particularly about pre-applications and, how to get District Mining Office representatives to meet with applicants at the pre-application stage, in order to address deficiencies (per the inclusion of regulatory citations in deficiency letters, as appropriate) and improve applications overall. Mr. Callaghan stated that William Plassio Bureau Director, DEP District Mining Operations, is the person to contact about these matters and, that he was working to have Mr. Plassio address the Board on noncoal permit application matters at a future Board meeting (depending upon his availability).
- BAMR and Waste Coal Facility Cleanups: This matter was mentioned and would be discussed at a future Board meeting.

ADJOURNMENT/NEXT MEETING: The Board voted to adjourn the meeting at approximately 12:30 p.m. The Board will meet again on May 4, 2016 at 10:00 a.m., at the DEP Southcentral Regional Office.

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 Associates/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.

AGGREGATE ADVISORY BOARD (BOARD)
Wednesday, August 3, 2016
Glenn O. Hawbaker Facility
Pleasant Gap, PA

VOTING MEMBERS OR ALTERNATES PRESENT: Rep. Bryan Barbin (PA House of Representatives – Member); Michael Hawbaker (Glenn O. Hawbaker and Associates/PA Aggregates and Concrete Association (PACA) – Alternate); Katie Hetherington-Cunfer (Citizens Advisory Council (CAC), Executive Director – Alternate); Paul Detwiler, III (New Enterprise Stone and Lime Co., Inc. - Alternate); Jonathan Lutz (PA House of Representatives – Alternate); Rep. Sandra Major (PA House of Representatives – Member); Joanne Manganello (PA Senate – Alternate); William Ruark (Meshoppen Stone, Inc. – Member); Todd Schmidt (PA Bluestone Association – Alternate); John Stefanko (DEP – Executive Deputy Secretary for Programs/Acting Deputy Secretary – Active and Abandoned Mine Operations (AAMO) – Alternate; Board Chairperson); Thaddeus Stevens (CAC – Member); Peter Vlahos (PACA – Alternate); and Burt Waite (CAC – Member)

OTHER ATTENDEES: Bill Allen (DEP – Mining Programs); Dana Aunkst (DEP – Deputy Secretary for Water Programs); Tom Callaghan (DEP – Mining Programs, Director); Tylere Cook (DEP – Mining Programs (Intern)); Richard Fox (PA House of Representatives - Staff); Josie Gaskey (PACA); Timothy Gourley (Dietz-Gourley Consultants); Andrew Gutshall (Lehigh Hanson); Charley Hall (PA House of Representatives – Staff); Shuvonna Perry (DEP – Mining Programs on conference call); William Plassio (DEP – District Mining, Director); Paul Pocavich (DEP – Mining Programs – on conference call); Keith Previc (DEP- Mining Programs); Michael Smith (DEP – District Mining Manager (Moshannon Office)); Daniel E. Snowden, D.Ed. (DEP – Mining Programs; Board Liaison); and Michael Welch (Glenn O. Hawbaker Associates).

CALL TO ORDER/INTRODUCTIONS

Mr. Stefanko called the meeting to order at approximately 10:00 a.m. Board members introduced themselves, as did all DEP personnel and other guests in the audience.

PACA ANTI-TRUST STATEMENT

Mr. Vlahos 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 May 4th, 2016 meeting.

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. Detwiler reported that Board's Regulatory, Legislative and Technical (RLT) Committee had met on two occasions (June 9th, 2016 and June 30th, 2016) to discuss proposed changes to the Non-Coal Fees Regulatory package. The RLT Committee developed a Recommendation Document as a result of these meetings, and this document was then shared with the Board, which voted unanimously to accept it. From here, a letter of support from the DEP Secretary was requested and Mr. Stefanko stated that such a letter was forthcoming. Lastly, Mr. Detwiler mentioned that the RLT Committee would need at least 2 additional meetings with DEP in August 2016 or September 2016 to provide input for finalizing the Non-Coal Fees Regulatory package, based on the Recommendation Document.

TRAVEL PROCEDURES

Ms. Perry shared information regarding Travel Expenses with the Board. The discussion was about the various forms that Board members and alternates should use when traveling, and how to complete these forms correctly.

UPDATES

Mr. Allen shared the following updates with the Board:

- **Technical Guidance:** Among several Technical Guidance Documents (TGDs) that were up for discussion, definitive updates were offered for the following:
 - *Beneficial Use of Sewage Sludge at Active Mine Sites:* *This TGD is under review by DEP's legal staff.*
 - *Engineering Manual:* *This TGD is being revised, based upon comments received from the Chapter 102 program (Erosion and Sedimentation Control).*
- **Non-Coal Regulatory Packages:** The regulatory agenda that involves non-coal mining matters includes the following:
 - *Chapters 210 (Blasters' Licenses) and 210 (Storage, Handling and Use of Explosives):* *This regulatory package has been revised; it was shared with the Mining and Reclamation Advisory Board (MRAB) during its July 21st, 2016 meeting and approved for forwarding to the Environmental Quality Board (EQB).*
 - *Non-Coal Fees:* *This matter remains under discussion. The regulations will continue to be revised, per a Recommendation Document prepared by the Board's RLT Committee. The Board was given the options to further address this matter: 1) take up the matter under "New Business;" 2) wait until the November 2nd, 2016 meeting; or 3) hold a special meeting. The Board's RLT Committee will discuss the package revisions per its Recommendation Document during meeting scheduled for August or September 2016.*
 - *Chapter 77 (Non-Coal Mining):* *This set of regulations has been removed from the regulatory agenda.*
- **National Pollutant Discharge Elimination System (NPDES) Permitting:** As of June 30, 2016, 41 Non-Coal NPDES permits have been sent to the US EPA, which has provided comments on 9 of them. The other 30 were issued without comments (including 19 "No Comment" letters) and the remaining 2 are pending (within the 30-day period). The NPDES permitting issues that continue to pose challenges include: 1) Whole Effluent Toxicity Testing (WETT) (here the US EPA is requesting more of this type of testing – particularly for waters that have been impaired due to facility activities); and 2) Proposed US EPA Regulations (all about electronic reporting; the challenge is getting both PA DEP and US EPA reporting codes to match – the latter's regulatory package does not do this).
- **Historical Application Progress under the Permit Decision Guarantee (PDG) Program (Non-Coal):**
 - *As of June 30th, 2016, 94% of all non-coal permit applications have been disposed (i.e., 417 of 444 permit applications – all from the Pottsville District Mining Office (DMO)). Of the 27 permit applications left, 16 are permit renewals.*
 - *On-Time non-coal permit application processing performance under the PDG Program ranged from a high of 89% (Knox DMO: 436 permits issued out of 483 permit applications received) to a low of 61% (Pottsville DMO: 555 permits issued out of 843 permit applications received)*
 - *The types of permit applications processed on time under the PDG Program included 200 NPDES permits, 70 large operations permits, 34 small operations permits and 92 miscellaneous permits (blast plans, completion reports, general permits). All permit applications were processed in an average of 201 days. During this discussion, the Board expressed interest in obtaining real-time data on the non-coal permit applications processed under the PDG Program; presently DEP staff persons wait until actual permit issuance to enter such data.*

- *The types of permit applications that were processed late under the PDG program included 114 NPDES permits, 25 large operations permits and 12 small operations permits. All permit applications in the category were processed in an average of 343 days.*
- *Among DMOs, the number and percentages of overdue non-coal permit applications ranged from a high of 61.1% (Pottsville DMO: 165 overdue applications out of 265 applications pending) to a low of 4.9% (Knox DMO: 2 overdue applications out of 41 applications pending).*
- **Non-Coal Mining Fee Revenues (General):** As of June 30th, 2016, non-coal revenues include \$1,364,300.00 from annual administrative fees, \$395,830.00 from permits and \$21,458.15 from licenses. There were also additional revenues from penalties (\$187,543.00 (five percent of this figure is sent to the Environmental Education Fund, making the actual total \$178,165.85), interest (\$199,298.87) and Permits In Lieu of Bond (PILBs) (\$91,158.32).
- **Clean Water Fund (CWF) Non-Coal Mining Fee Revenues:** For coal and non-coal, CWF revenues ranged from \$247,800.00 in FY 2012-2013 to \$646,950.00 in FY 2016-2016. The larger figures for the most recently completed fiscal year resulted from increased overall activities and, a few instances of monies being placed in the wrong funds initially, making corrections necessary. During this report, PACA requested to explore a breakdown of the Clean Water Fund Mining Fees between coal and non-coal. Mr. Stefanko agreed with this idea.
- **Overview of Non-Coal Facilities:** This covers inspectable units. Between March 31st, 2016 and June 30th, 2016, there were no changes in the numbers of inspectable units for small operations (< 2,000 tons/year), GP 103, or underground facilities. There were only slight changes to the small operations (< 10,000 tons/year; down 2 facilities), GP 105 (down 2 facilities) and large operations (down 5 facilities).
- **Overview of Non-Coal Applications:** Between 2012 and 2016, these have fluctuated in the following fashion:
 - Licenses: *These ranged from 1,278 in 2012 to 708 in 2016 (to date).*
 - Large Operator Permit Applications (New): *These ranged from 25 in 2012 to 3 in 2016 (to date).*
 - Small Operator Permit Applications (New): *These ranged from 33 in 2012 to 36 in 2016 (to date).*
 - NPDES Permit Application (New): *These ranged from 17 in 2012 to 8 in 2016 (to date).*
 - NPDES Renewal Applications: *These ranged from 54 in 2012 to 46 in 2016 (to date).*
 - Pre-Applications: *These ranged from 7 in 2012 to 5 in 2016 (to date).*
- **Non-Coal Surface Mining, Conservation and Reclamation Act (NSMCRA) Fund Obligations:** The elements for the NSMCRA obligations include the following:
 - Cash Collateral (per E-Facts): *\$2,055,457.87*
 - PILB Underwritten: *\$2,092,597.05*
 - Bond Forfeiture (BF) Reclamation: *greater than \$4.3 million (this figure could actual double over a short time frame).*
 - *The June 30th, 2016 NCSMCRA Fund Fiscal Report shows:*
 - A total of \$6,425,248.72 for the General Operations account.
 - A total of \$1,994,217.30 for the Collateral account.

- A total of \$805,253.76 for the Restricted Bond account.
- **Non-Coal Program Bond Forfeitures:** Between 2010 and 2016 (to date) for small and large non-coal operations, overall bond forfeitures ranged from 8 in 2010 (all for small operations) to 13 in 2016 to date (11 from small operations and 2 from large operations).

NON-COAL FEE REGULATORY PACKAGE

This agenda item was covered during the Board's RLT Committee report. The RLT Committee will be revisiting this regulatory package further during its subsequent meetings.

NON-COAL BOND RATE GUIDELINES

Mr. Allen reported on the Non-Coal bond rate guidelines currently proposed; these were initially shared with the Board during the May 4th, 2016 meeting. The guidelines serve as an update from those that were developed in 2011, and they will be finalized by early Fall 2016 and implemented as current rates in 2017. Feedback from the Board is sought, and the RLT Committee plans to evaluate these guidelines during its subsequent meetings as well.

It was noted that the District Mining Offices were developing an action plan to convert sites to full-cost bonding within 3 to 4 years and, that increases in bond rates will only apply when the revised figures become available.

NEW BUSINESS

The following matters were discussed during this period:

- **Office of Water Programs Update:** Mr. Aunkst provided a report on the following aspects of the DEP Office of Water Programs:
 - *Overview: The original Water Programs Deputate was found to be too large to operate efficiently. Therefore it was divided into 2 Offices – one for Water Programs and one for Water Resources Planning.*
 - *Working Units: The activities for the Office of Water Resources Planning include the State Water Plan and the River Basin Commission Interactions. The activities under the Office of Water Programs include: 1) Bureau of Safe Drinking Water; 2) Bureau of Waterways Engineering and Wetlands; 3) Bureau of Clean Water; and 4) Chesapeake Bay Office.*
 - *Bureau of Clean Water: This bureau is currently involved with the Integrated Water Report (i.e., the Impaired Waters Listing). This report is currently out for public comment. When that period ends, a comment-response document will be prepared. From there, the report will go to the US EPA for initial review, then back to DEP for final review, then back to US EPA for approval. It was noted that 19,000 miles of Pennsylvania streams are impaired, with many miles of streams impaired by agricultural activities and acid mine drainage (AMD), with the latter (AMD-impaired streams) showing continued restoration per Best Management Practices (BMPs) for runoff control and well-maintained AMD treatment systems. It was also noted that only 300 miles of non-wadeable streams have not been assessed (out of 86,000 total stream miles) and that various uses are considered in determining water quality (i.e., Fish and Aquatic Life, Drinking Water and Recreation) – this assessment effort is also performed with input from the PA Fish and Boat Commission, the U. S. Fish and Wildlife Service, the U. S. Geological Survey and various watershed organizations. The goal is to address the obvious impairments (e.g., AMD) and then move towards addressing the non-obvious impairments (e.g., N, P) by developing Total Maximum Daily Loads (TMDLs) for these impairments, via permit limits.*

- *NPDES Permits and Water Quality and Fees*: The Bureau of Clean Water is currently down 176 positions, and additional funds are sought for increasing this complement. Increases in permit fees are being looked at as one possibility for this and the Water Resources Advisory Committee (WRAC) plans to review this regulatory package at its August 16th, 2016 meeting; at that time, the actual cost to run the programs of this Bureau will be shared.
- *Triennial Review of Water Quality Standards*: There are plans to revise the Chloride (Cl) standard to address matters involving the oil and gas industry (mainly in western Pennsylvania) and freshwater mussels. The formula for this will be based upon water hardness and the revised standard will be approximately 230 mg/l for streams with an average hardness. Toxic parameters may also be revised, with consideration for average human body weight and overall health effects.
- *Chesapeake Bay TMDLs*: These are being developed in order to reduce nutrients and sediment from agricultural, stormwater, and urban runoff sources.
- *Stormwater Regulation*: This matter is a water quality issue. Efforts to regulate stormwater are still somewhat fragmented (i.e., covered under several Bureaus), and there is a proposal to restructure the Bureaus of Clean Water and Waterways Engineering and Wetlands to address stormwater more effectively. Listening sessions, work groups, regulatory updates are likely to be employed make stormwater management more risk-based and water quality-based – this concerted effort could begin as early as September 2016.
- *Function and Value of Wetlands*: The protocol for determining this is now being finalized (mainly for wetlands banking). Chapter 105 (Water Obstructions, Encroachments and Wetlands) is undergoing a comprehensive evaluation for possible revision to reflect current conditions, including requirements for buffer zones, public and industry costs of implementing Chapter 105 rules and soil types and water contact (for wetlands, soil absorption is required under the current regulations, but this is not always the case, as there are instances where water does not absorb into the soil at some wetland sites).
- *Stream Redesignations*: There is an existing backlog for the redesignation of specific water bodies; the backlog will be addressed according to existing protocol.
- *Existing Use List*: This applies to water bodies with specific designations (e.g., Cold Water Fishes, High Quality, Exceptional Value). The process for such designations involves petitions with surveys, which are based on water chemistry and aquatic life. These submissions are then reviewed and approved – if applicable, the existing use or the new designated use becomes the norm. There are plans to change how water bodies are designated in the future – this will most likely involve revisions to regulatory citations, with extensive public comment.
- *Additional Items*: PACA requested information for the Board with respect to the DEP Water Program's proposed permit fees for wetlands. Specifically, there was a request to see the support information behind any proposed permit fees for wetlands. PACA also requested for the Board to receive DEP Water Program's stream redesignation backlog list.
- **Underground Non-Coal Technical Guidance Document**: Mr. Allen reported that this document had been revised and would be resubmitted. The report will be shared with the Board's RLT Committee when it becomes available.
- **Annual Report (2015) of the Aggregate Advisory Board**: Ms. Gaskey stated that the Board's Annual Report was undergoing revisions (from the draft that was shared during the Board's May 4th, 2016 meeting) and that this report would be shared with the Board at its November 2nd, 2016 meeting.

OPEN TIME

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

ADJOURNMENT/NEXT MEETING

Mr. Stefanko adjourned the meeting at approximately 12:10 p.m. Following the meeting, Board members, alternates and guests participated in a tour of the Glenn O. Hawbaker facility.

The Board will meet again on **November 2nd, 2016** at 10:00 a.m., at the DEP Southcentral Regional Office, 909 Elmerton Avenue, Harrisburg PA 17110.

**MINUTES
AGGREGATE ADVISORY BOARD (BOARD) MEETING
November 2, 2016
PA DEP Southcentral Regional Office
909 Elmerton Avenue
Harrisburg, PA 17110**

VOTING MEMBERS OR ALTERNATES PRESENT:

Rep. Bryan Barbin (PA House of Representatives - on conference call)
Michael Hawbaker (Glenn O. Hawbaker and Associates/PA Aggregates and Concrete Association (PACA) - on conference call)
Katie Hetherington-Cunfer (Citizens Advisory Council (CAC) - on conference call)
Jonathan Lutz (PA House of Representatives)
Joanne Manganello (PA Senate)
William Ruark (Meshoppen Stone, Inc.)
Todd Schmidt (PA Bluestone Association)
Mark Snyder (Pennsy Supply)
John Stefanko (DEP; Board Chairperson)
Peter Vlahos (PACA)

OTHER ATTENDEES:

Bill Allen (DEP – Mining Programs)
Abbey Cadden (DEP – Policy Office)
Tom Callaghan (DEP – Mining Programs)
Bruce Carl (DEP – Mining Programs)
Laura Edinger (DEP Policy Office – on conference call)
Josie Gaskey (PACA)
Jennifer Gulden (DEP – Mining Programs)
Darrel K. Lewis (Allegheny Mineral Corporation)
Matthew McClure (Specialty Granules, Inc.)
Shuvonna Perry (DEP – Mining Programs)
Paul Pocavich (DEP – Mining Programs)
Daniel E. Snowden, D.Ed. (DEP – Mining Programs; Board Liaison)

CALL TO ORDER/INTRODUCTIONS

Mr. Stefanko called the meeting to order at approximately 10:05 a.m. Board members introduced themselves, as did all DEP personnel and other guests in the audience.

PACA ANTI-TRUST STATEMENT

The PACA Antitrust Statement was read by Mr. Snyder.

APPROVAL OF MINUTES

Mr. Vlahos mentioned the need to make a minor change to the minutes from the Board's August 3, 2016 meeting. Once agreement to make this change was noted, the Board voted unanimously to approve the minutes from its August 3, 2016 meeting.

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 the Board's Regulatory, Legislative and Technical (RLT) Committee has met several times to continue the discussion of proposed changes to the Non-Coal Fees Regulatory package. He noted that the Recommendation Document and Permit Fees Framework Document, both of which had been developed by the RLT Committee, were discussed during these meetings; the Framework Document contained several topics to work on with DEP staff (i.e., Karst Geology; Management of the Non-Coal Program; Expedited Review of Permit Applications; Acceptance of Professional Engineer (PE) or Professional Geologist (PG) Stamp on Permit Modules; Transparency of Information used in Permit Reviews; Permit Review Payment and the Permit Decision Guarantee (PDG) Program; Annual Report and Permit Fee Index; Site Inspections; Consultant Qualifications; and Full-Cost Bonding and Bond Releases).

Additionally, Mr. Snyder reported that DEP Acting Secretary Patrick McDonnell had sent the requested letter to the Board in support of the Permit Fees Framework Document and, the result of the meetings was that the RLT Committee voted to accept the proposed January 2016 Non-Coal Fees Regulatory package with the understanding that the RLT Committee's Permitting Fees and Recommendation Documents would be considered in the further development of this regulatory package. The Board voted to accept Mr. Snyder's report, and inquired about when the new non-coal permit fees would become effective. Mr. Allen stated that the package would go to the Environmental Quality Board in 2017, following all required reviews and that the non-coal permit fees would take effect in early 2018, following EQB approval.

BUREAU OF MINING PROGRAMS UPDATES

Mr. Allen reported on the following topics:

- **Technical Guidance:** The one item mentioned among others was the Engineering Manual. An internal DEP meeting will be held regarding this technical guidance document, with an emphasis on the Chapter 102 requirements.
- **Regulatory Agenda:** Mr. Allen noted that the Chapter 210 and Chapter 211 Regulations published on February 27, 2016 would be discussed with the Board later in the meeting.
- **National Pollutant Discharge Elimination System (NPDES) Permitting:** Mr. Allen provided information about non-coal NPDES permitting in terms of:
 - Permits sent to the United States Environmental Protection Agency (US EPA) for approval, either with or without comments, including permits that are pending.
 - Remaining NPDES permitting issues, including:
 - Checklist (this has not been finalized as yet).
 - Sufficiently Sensitive Methods (addressing the matter of protection limits for pollutants, where the "<" (less than) values are not low enough).
 - Monthly Calls with US EPA: scheduling these has been a challenge.

- E-Reporting Rule: This matter relates to transmitting NPDES status reports from the State database to the Federal database.
 - Whole Effluent Toxicity Testing (WETT): This matter is close to resolution with the California District Mining Office, where there are some high Total Dissolved Solids (TDS) thresholds for impaired waters as related to aquatic life protections.
 - US EPA Proposed Regulations (May 18, 2016): Some changes are proposed for how NPDES permits are managed and tracked. US EPA and PA DEP currently use different coding schemes in managing and tracking NPDES permits).
- **Permit Decision Guarantee (PDG) and Historical Application Progress:** (Note: Following this presentation, the Board made a request for DEP to provide a summary of PDG applications broken down by year). Mr. Allen provided information regarding the PDG in the non-coal permitting program in terms of:
 - Permit applications disposed.
 - Permit applications remaining for action.
 - On-time PDG application performance percentages among District Mining Offices and permit types.
 - Overdue PDG application performance percentages among District Mining Offices and permit types.
- **Revenues and Expenditures:** (Note: During this presentation, the Board requested expenditure information from years prior to 2016, along with expenditure sources, in order to obtain a better representation of overall non-coal program expenditures). Mr. Allen reported the status of non-coal program revenues and expenditures in terms of:
 - Revenue Sources (i.e., administrative, permit and license fees, penalties, payments in lieu of bond and interest – all for the 3rd quarter of 2016).
 - Expenditures (between October 2015 and September 2016 and, monthly for the 3rd quarter of 2016).
 - Additional revenues from the Clean Water Fund (between FY 2012-2013 and FY 2016-2017 (to date)).
- **Program Overview:** Mr. Allen provided information on the status of non-coal facilities and applications in terms of:
 - Numbers of inspectable units (i.e., large and small facilities; operators; and underground facilities).
 - Non-Coal application types (i.e., licenses, large facilities, small facilities, NPDES (new and renewals), pre-applications).
- **Non-Coal Surface Mining Conservation and Reclamation Act (NCSMCRA) Fund Obligations:** Mr. Allen reported on the status of the NCSMCRA fund in terms of:
 - Fund obligation sources (i.e., cash collateral, payments in lieu of bond and bond fund reclamation) and;
 - Location for NCSMCRA monies (i.e., general operations, collateral and restricted bond funds).
- **Bonding and Bond Forfeitures:** Mr. Allen provided information on the status of the non-coal bonding program, with emphasis upon the following:
 - Number of bond forfeitures for large operators and small operators, between 2010 and 2016.

- Current bond forfeiture projects.

UPDATE ON BLASTING AND EXPLOSIVES REGULATIONS (25 PA CODE, CHAPTERS 210 AND 211)

Mr. Allen provided information on proposed revisions to 25 PA Code, Chapters 210 (Blaster's Licenses) and 211 (Storage, Handling and Use of Explosives). The following revisions were highlighted:

- **Definitions (Chapters 210 and 211)**
- **Enforcement (Chapter 211, Section 211.103) and Daily Summary Magazine Transactions (Chapter 211, Section 211.117)**
- **General Requirements (Chapter 211, Section 211.121)**
- **Blasting Activity Permits (Chapter 211, Section 211.124)**
- **Blast Reports (Chapter 211, Section 211.133)**
- **Transportation (Chapter 211, Section 211.141)**
- **Blasting Activities (Chapter 211, Section 211.151)**
- **Gases (Chapter 211, Section 211.152)**
- **Pre-Blast Measures (Chapter 211, Section 211.155)**
- **Civil Penalties (Chapter 211, Section 211.201)**

Following this presentation, the Board voted to accept the regulatory package for Chapters 210 and 211 as a final rulemaking for forwarding to the EQB.

NON-COAL BOND RATE GUIDELINES

Mr. Carl highlighted some of the changes proposed for non-coal bond rates, which would be announced in a December 2016 edition of the Pennsylvania Bulletin. The rate changes apply to the following variables:

- **Per Acre Rates Applicable to Disturbed (Not Reclaimed) Area**
- **Spoil Storage/Earth Moving**
- **Blasting to Achieve Reclamation Slope:** Items covered include highwall/bench height, mine sealing (underground mine drift, slope and shaft openings), security fencing and mobilization.
- **Sealing Boreholes at Underground Mines**
- **Additional Items** (i.e., pond reclamation, tires, mobilization)
- **Large Non-Coal Sites (Unconsolidated Material)**
- **Small Non-Coal Sites – Permit Operations**
- **Small Non-Coal – Consolidated Materials**
- **Small Non-Coal Sites – Unconsolidated Materials**

NEW BUSINESS

The following matters were discussed during this period:

- **Underground Non-Coal Technical Guidance Document:** Mr. Allen reported that this document has been rescinded and that a customized permit application was being developed.

He noted that this new permit application would organize modules by topic and, that it would be shared with the Board as soon as it becomes available.

- **Aggregate Advisory Board Annual Report:** Ms. Gaskey reported that this report was undergoing revision and would be available for review at the next Board meeting.
- **Dates for 2017 Aggregate Advisory Board Meetings:** Ms. Perry shared a preliminary schedule for the 2017 Board meetings with the Board. However, Mr. Stefanko recommended that only the first Board meeting for 2017 be scheduled; the date for this meeting will be February 1, 2017. All other dates will be scheduled in accordance with the session schedules of the General Assembly, as some of the Board members come from both the PA House and the PA Senate.
- **Selection of an Aggregate Advisory Board Logo:** A circular logo, with images of the sun, a “mountain” (depicted for non-coal mining) and a green hill, all cradled by a leaf, was shared with the Board. In the images, the logo’s text appears either at the bottom of the logo or, at the side of the logo. Board members voted to accept this logo design idea for use as a heading on any correspondence it may send in the future.

OPEN TIME

Ms. Gaskey mentioned the need for the Board to have the unpublished listing of Existing Use Designations for Streams from the Office of Water Programs; this was noted at the August 3, 2016 Board meeting. Mr. Stefanko stated that he would work to obtain this information from the Office of Water Programs.

ADJOURNMENT/NEXT MEETING

Mr. Stefanko adjourned the meeting at approximately 11:30 a.m. The Board will meet again on **February 1, 2017** at 10:00 a.m., at the DEP Southcentral Regional Office, 909 Elmerton Avenue, Harrisburg PA 17110.