

AGGREGATE ADVISORY BOARD (BOARD)
Tuesday, May 7, 2024
Hybrid Meeting (via Microsoft Teams)

VOTING MEMBERS OR ALTERNATES PRESENT:

William Ruark (Member – Meshoppen Stone, Inc.)
Paul Detwiler, III – (Member – New Enterprise Stone and Lime Co., Inc.)
James Schmid (Member – Schmid and Co., Inc (Consulting Ecologists) / Citizens Advisory Council (CAC))
R. Timothy Weston (Member - K & L Gates, LLP / CAC)
Ian Irvin (Alternate – (CAC))
Ronald Kurpiel (Alternate - Hanson Aggregates (Western PA))
Glendon King (Alternate - PA House of Representatives)
Matthew Osenbach (Alternate – PA Senate)
Peter Vlahos (Alternate – PA Aggregates and Concrete Association (PACA))

OTHER ATTENDEES:

John Stefanko (DEP - Active and Abandoned Mine Operations (AAMO))
Patrick Webb (DEP - Bureau of Abandoned Mine Reclamation (BDMO))
Richard Wagner (DEP - Bureau of Mine Safety (BMS))
Kerry Speelman (DEP - BMS)
William Hudak (DEP - BMS)
Nathan Houtz (DEP – Bureau of Mining Programs (BMP))
Sharon Hill (DEP – BMP)
Greg Greenfield (DEP – BMP)
Laura Mensch (DEP – BMP)
Daniel E. Snowden, D.Ed. (DEP – BMP/Board Liaison)
Christopher Stewart (DEP – BMP)
Emily Fisher (DEP – BMP)
Rachel Colyer (DEP – BMP)
Sage Saum (DEP -- BMP)
Randy Shustack (DEP – Bureau of District Mining Operations (BDMO))
Amy Berrios (DEP - AAMO)
Lena Smith (DEP – Policy Office)
Richard Marcil (DEP – Regulatory Council)
Jeffery I civic (Guest – PA Senate)
Jamie Stilley (Guest - Amerikohl Aggregates, Inc.)
Jessica Deyoe (Guest - Babst-Calland)
Terry Schmidt (Guest - Earthres)
Joseph Lechnar (Guest - Earthtech, Inc.)
Brian Verwelst (Guest - Earthtech, Inc.)
Michael Clark (Guest - New Enterprise Stone and Lime Co., Inc.)
Kevin Claycomb (Guest - New Enterprise Stone and Lime Co., Inc.)
Nate Eachus (Guest – Affiliation Unknown)
Elam Smith (Guest – Affiliation Unknown)

CALL TO ORDER

The meeting was called to order at approximately 10:00 a.m. by Board Chairperson John Stefanko.

PACA ANTI-TRUST STATEMENT

The Board reaffirmed its adherence to PACA's anti-trust statement, both in letter and spirit. This requirement extends to industry members and alternates on the Board.

ROLL CALL/INTRODUCTIONS

Board members, alternates and guests in the room who were present for the meeting introduced themselves, and those joining online then introduced themselves.

APPROVAL OF MINUTES

The Board approved the meeting minutes from the February 21, 2024, meeting minutes without changes.

CORRESPONDENCE

Daniel E. Snowden reported that the Citizens' Advisory Council (CAC) recently appointed its members to the Aggregate Advisory Board; Dr. Snowden noted that James Schmid and John Sinclair, who are also on the Mining and Reclamation Advisory Board (MRAB) are now CAC appointees to the Aggregate Advisory Board and, that Tim Weston and Thaddeus Stevens have been reappointed to this Board. Dr. Snowden also noted that the package for the reappointed members and 1 new appointee is being put together and sent up to the Acting Secretary's Office for approval shortly.

PUBLIC COMMENTS

The floor was opened for public comments; none were submitted to the Board.

COMMITTEE REPORTS

The Board's Regulatory, Legislative and Technical (RLT) Committee has not met since the meeting on August 4, 2022, so there was nothing to report.

DELIVERABLES

Nate Houtz, Director for the Bureau of Mining Programs (BMP) indicated there were no deliverables to report.

BUREAU OF MINING PROGRAMS (BMP) UPDATES

The Board was provided with updates from Sharon Hill and Gregory Greenfield on the following topics:

- **Noncoal Applications Breakdown**

Ms. Hill provided the Board with information regarding the distribution of applications across the District Mining Offices (DMOs). Data encompassed the summary of the 1st Quarter of 2024.

Table presented shows applications in and out, with detailed graphic showing all applications per office, with Pottsville leading.

- **Regulatory Agenda**

Ms. Hill reported that there was no update for the noncoal program for this meeting.

- **Non-Regulatory Agenda**

Ms. Hill reported that there was nothing pending for both the Non-regulatory agenda and, Technical Guidance Documents (TGD's) at this time.

- **e-Permitting and e-Discharge Monitoring Reports (e-DMR)**

Ms. Hill shared that there are currently no updates on the e-Permitting but invited John Stefanko to comment on this. Mr. Stefanko reported that DEP, as a whole, is going through an information technology (IT) modernization, and this is a long-term process. The first step is selecting the platform by which all IT systems within the agency will operate under, and this announcement is imminent. The next step will be to test it out, the agency having six or seven hundred programs to mesh with the system, testing each program in turn. The good news is that there is money in the budget for all of this; but this means e-Permitting is further down the road.

Ms. Hill did want to add that the public upload is working; anything needing to be submitted to the department for mining programs can be done digitally, and pay online, and this is working well. The DMOs are used to using this, and if anyone needs help in submitting any documentation or application information, to let us know at BMP and we can provide instructions. There was a question about the time frame for this IT testing, and Mr. Stefanko indicated this will likely be about 18 months to two years, tentatively.

- There was also a question about Standard Operating Procedures (SOPs) or TGDs being worked on at this point. Ms. Hill mentioned the Water Supply TGD, which will apply to non-coal as well; she indicated that the work here involves adding clarifications to items/activities that operators are already used to doing, and there would not be anything new. However, there is no draft yet, since three TGDs are being put together as two; Ms. Hill is hoping a draft will be ready by the end of the year.

- **Licensing updates**

Ms. Hill shared that the new updated Transfer Application (allowed by the Chapter 77 revisions from last year) was currently being completed in Document Processing and, it will be more streamlined and clearer in terms of how to submit this particular application. Ms. Hill also reported that a new Permit Revision Application package was being completed and should be coming out in the next couple weeks. Lastly, Ms. Hill wanted to remind everyone that the BMP Updates is the tile on the sidebar of the main BMP page.

- **Bonding and Bond Forfeitures**

Mr. Greenfield reported that there have been two small noncoal bond forfeitures and one bluestone forfeiture so far in the year 2024. He then shared the numbers for the current cash collateral bonds being held, the bonds underlying the PIL program, and bonds collected for noncoal bond forfeiture reclamation.

Mr. Greenfield shared information on the general operations fund, collateral bonds held by the Department, as well as the amount of bonds collected to be used for forfeiture reclamation. A question was raised about forfeited bonds and the actual costs of reclamation; Mr. Greenfield indicated that the plan is to eventually get rid of permits with no or little bonds, and if a permit will be forfeited, it will be at full cost, to reflect the true cost of the reclamation.

Mr. Greenfield then reviewed the amount generated into the Clean Water Fund so far in 2024, including both coal and noncoal, NPDES, Chapter 105 fees, and wetland encroachment fees. Revenues collected and expenditures over the quarter were briefly reviewed by Mr. Greenfield. He reminded the Board that personnel costs had been charged against the General Fund, in an effort to stabilize the noncoal fund. This is the plan to request this be done again in the next fiscal year. Otherwise, nothing else of note to discuss.

Mr. Greenfield also noted that there were no penalties collected for January due to a miscoding, so the figures for March covered both January and March.

There was a question about the fee increases, and Mr. Greenfield indicated that we are doing a good job keeping our expenditures down, but realistically difficult to fund a fund on permit fees. Additionally, Mr. Stefanko reminded the Board about the recent American Federation of State County and Municipal Employees (AFSCME) agreement, which will raise the personnel costs over the next several years, must be accounted for as well.

- **Additional Matters**

Mr. Stefanko wanted to add that the federal Noncoal Abandoned Mine Land (AML) program, which has not been adequately funded since being established, is receiving support for increasing the funding to that program with federal dollars. He believes Pennsylvania could be eligible to submit a grant request for this program, in order to better address and supplement our reclamation obligations.

A question was raised to clarify whether this was the same information shared in previous meetings, about the Hardrock AML funding, and whether this was federal funding for the 2025 fiscal year, and Mr. Stefanko indicated that it was, and that different people refer to this by different names.

PRESENTATION -- DRAFT TGD: GUIDELINES FOR SUBMITTAL OF BENCHING PLANS

William Hudak presented to the Board information about a Draft TGD. Mr. Hudak explained that benching is the removal of minerals from the floor or ceiling of existing corridors or passages. Pillar height is increased, but the width remains the same; this scenario has increased instability in the recent past in several mines.

Benching Plans have been requested for approximately the last 2 years due to several catastrophic failures occurring in and around several benched areas. These pose a safety hazard to the mine workers and the persons aboveground as well.

Operators of underground industrial mining with appropriate stone thickness, to permit additional material be removed through benching, have been submitting these plans, which typically include a risk assessment for the pillar failure, analyzation of the roof beam, and current geological issues which may be occurring in that mine. A model is then created through S pillar, or potentially other means, to be analyzed and checked to make sure they are working within the safety bounds for that particular formation.

A question was raised about the timeline to finalize the TGD, to which Mr. Hudak responded that he will present it again in the fall; also Mr. Stefanko indicated that it should be under review by the Board's Regulatory, Legislative and Technical (RLT) Committee - with the members being identified by Nathan Houtz, Laura Mensch and Daniel Snowden - so the document can be shared and reviewed by the appropriate people.

Another question was asked about the timeline of reviewing the benching plans which are submitted. Mr. Hudak indicated that the timeframe was between one and two weeks, typically, depending on how well the plans were submitted, since the plans requires that the inspector actually goes into the area to identify any hazards with the operator; the fully-reviewed plan is the product submitted with the S pillar or other equations. No removal of material can occur without the approval of the plans.

A question was raised regarding how well-received the requirement for these plans were, and Mr. Hudak indicated that there has been most always cooperation so far.

There was a question raised about what certifications, professional skill-level or experience would be expected for the people who are preparing the plans; it was indicated that at least a Mine Foreman, but that additional PG or PE is not being required at this time, unless there would be extenuating circumstances.

It was noted that the TGD is the first step, the nuts and bolts so to speak, before any determination of a regulatory change that might potentially be needed in the future.

WASTE MATERIALS IMPORTED TO MINE SITES

Sharon Hill provided a presentation to review non-mining activity occurring on a mine site; a subset of this activity involves importing material to the site typically used for reclamation purposes. Most of this is already known by the operators, but questions have arisen about the use of waste general permits used on mine sites.

Ms. Hill reviewed the reasons for importing materials to mine sites, as well as the types of materials imported to the same, and explained that the imported materials must be authorized by the mining permit and reflected in the operation and reclamation plan and maps. If importation is not already considered under regular operations, the permit team may need a minor or major revision; separate authorizations; and associated permit conditions attached – all regarding monitoring and reporting of that material.

DMOs receive requests for importing all kinds of materials onto mine sites, and if they're not suitable for beneficial use, they are rejected.

Ms. Hill noted that there are guidance documents already existing for several types of importing activity and, that importation of materials, while rather common on coal sites, does occur on noncoal sites as well: the same principles apply to both. Mining permits are not intended for waste disposal, and the permitted party is not authorized to accept "fill" without approval; the Reclamation Fill TGD provides guidance for incidental and reclamation volumes imported to the site. The Waste General Permit (GP) Materials TGD outlines that the waste permit must be obtained first and, does not automatically allow the material to be brought into any mine sites, but rather site-specific approval is needed to authorize it, making sure that the material is usable and appropriate for the site. Additional monitoring might be required as well. Convenience disposal is not allowed.

Ms. Hill stated that generally, it is advantageous to not have any non-mining activity on the mining permit, but in many cases the activity is occurring because it's integral to the process (as recycled asphalt or concrete); it is regularly approved without an issue.

Several examples were discussed, including monitoring parameters involving runoff encountering imported materials and, isolating materials depending on type of activity and materials. These situations may incur possible additional requirements in the permit, including chemical constituents testing and, establishing and monitoring the materials' physical characteristics.

Ms. Hill noted the possibility of revising the erosion and sedimentation (E & S) plans, specifying the stockpiles in used areas, or revised air pollution and noise control plans if stockpiles and similar operations are not already covered in existing approved plans.

If material will need to be removed for reclamation of the mine site, this will need to be covered by additional bond in some cases, usually only applied over a certain volume. Inspection and permitting staff are aware of the requirements.

After the presentation, there was a short discussion of a variety of fill materials, from food processing waste, dredged material from rivers out-of-state, and drill cutting materials – all of which are generally not allowable for use in mine-fill operations.

UPDATE FROM BUREAU OF DISTRICT MINING OPERATIONS (BDMO)

Randy Shustack, BDMO Director, indicated he only had two updates for the Board.

The first was a staffing update: Moshannon DMO has a new Permits Chief by the name of Dan Usted. The search for Knox Permits Chief is currently on, job is posted and awaiting to interview candidates.

The other update was about the questions submitted pertaining to bag house fines at the end of April, by PACA. These have been shared with Jason Dunham, from the Waste Program at Central Office, who is reviewing them. Once he has his answers, Mr. Shustack will be meeting with PACA, along with the Mining and Waste Programs, to discuss each question in detail.

NEW BUSINESS

The Annual Report's status was requested, and Mr. Detwiler indicated that everyone has had a chance to review it, so it is ready to submit and publish.

The status of the interim final Environmental Justice (EJ) policy was requested, and it was noted that the comments have been taken into consideration, and that the comment and response document was in the works.

A question was raised about updates on the Annual Production Report. Mr. Houtz indicated that Jim Charowsky was in charge of this project and, that he was finishing things up.

A request was made to have an initiative to harmonize mapping icons, symbols and colors; Mr. Stefanko indicated that there had been some movement on this; he stated that he was not sure where this effort stood, but that more news on it should be forthcoming.

ADJOURNMENT/NEXT MEETING

A motion to adjourn was unanimously accepted by the Board. The meeting concluded at approximately 11:00 a.m. The next scheduled meeting is to be held on August 28, 2024, at 10:00 a.m., in Conference Room 105 of the Rachel Carson State Office Building in Harrisburg.