



PA Department of Environmental Protection

Aggregate Advisory Board

2023 Annual Report



Pennsylvania
Department of
Environmental Protection

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“The aggregates industry -- representing stone, sand and gravel, ready-mixed concrete and cement -- plays a critical role in building Pennsylvania’s economy through its strong employment base and the important position its products play in building, feeding and connecting our communities.

The Department of Environmental Protection (DEP) considers the input of the Aggregate Advisory Board vital in carrying out our mission to protect Pennsylvania's air, land and water and to provide for the health and safety of its citizens. Members of the Aggregate Advisory Board represent industry, the legislature, county conservation districts and citizens. As part of the Aggregate Advisory Board, they have the opportunity to share experience, knowledge and expertise with DEP on issues relating to non-coal mining. This collaborative approach results in commonsense protective regulations and policies built on sound science.

I look forward to continuing the good working relationship with the members of the board to find the most efficient ways to promote environmental compliance while fostering the growth of this most important industry.”



Pennsylvania
**Department of
Environmental Protection**

John Stefanko
Deputy Secretary for Active and Abandoned Mine Operations (AAMO)
PA Department of Environmental Protection

“The aggregates businesses in Pennsylvania are the foundation that builds civilization--towns and cities and the connections—roads and bridges—are among the important blocks of communities. Our aggregates are used to build roadways, airports, distribution centers, tunnels, bridges, schools, homes, churches, retail establishments, etc.

I believe all DEP Advisory Boards play an important role in addressing issues that affect industry in a collaborative exchange of understanding, knowledge, ideas and scientifically-based, technically-accurate solutions in a manner that ultimately results in a better understanding for all involved. The Aggregate Advisory Board specifically brings together industry, citizens, legislative members and the Department in a transparent setting that prompts a free exchange to upcoming and active challenges faced by the Commonwealth of Pennsylvania and industry. On behalf of all members of this Board and the industry, we look forward to continuing on building this momentum through open discussions relating to noncoal mining at these Board meetings.

It is an honor to continue serving as Vice-Chair of the Aggregate Advisory Board. I commend the Department of Environmental Protection for the work done with this Board.”

Paul Detwiler, III
President and Chief Executive Officer – New Enterprise Stone and Lime Co., Inc.



**New Enterprise
Stone & Lime Co., Inc.**

HISTORY AND PURPOSE OF THE 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 the [Co-Sponsorship Memorandum](#) dated September 10, 2013, Senator Scarnati indicated the creation of this advisory board was to assure that the policy decisions and changes from the Pennsylvania 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 (Board) was created by the enactment of Senate Bill 1155 as [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 DEP Secretary to spend funds for the purposes provided by Section 17, “Noncoal Mining Conservation and Reclamation Fund,” of the Commonwealth’s Noncoal Surface Mining Conservation and Reclamation Act ([Act 219 of 1984](#)), 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. Act 137 of 2014 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 Act 137 of 2014. The Board is comprised of the DEP Secretary (chair), three aggregate surface mining operators, four members of the public from DEP’s 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.

Each member is appointed for a two-year term except that 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. The Board’s 2023 members and the alternatives are detailed on pages four and five of this report. A list of the current members as well as other information can be found on [the Board’s webpage](#) 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 Deputy Secretary for Active and Abandoned Mine Operations (AAMO), John Stefanko. Elected by the Board as Vice-Chair is Paul Detwiler, III, President and Chief Executive Officer, New Enterprise Stone and Lime Co, Inc.

COMMITTEES AND RESPONSIBILITIES

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 RLT 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 Act 137 of 2014 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. Robert Hughes is also designated as a member of the Committee. These people have changed over the years. And currently include Paul Detwiler, III (RLT Committee chair); Thaddeus Stevens; Robert Hughes; Timothy Weston; and Mike Hawbaker.

The noncoal mine permit fees are currently required to be evaluated every three years under DEP’s noncoal mining regulations [at 25 Pa. Code Chapter 77](#). DEP increased these fees on a six-year phased basis effective January 2020. Current fees can be found in [25 Pa. Code § 77.106](#).

2023 MEETINGS

Full Board meetings were held February 1, 2023; May 3, 2023; September 14, 2023; and November 1, 2023. The location for the 2023 field trip, to be held in conjunction with the August 2nd meeting, was the New Enterprise Stone and Lime Co. quarrying facility in Gettysburg, however this meeting was rescheduled and the field trip canceled.

Continuing the practice that started during the COVID-19 pandemic, the Department offered a method of virtual access for all of the 2023 meetings, so that attendees had the option to either join the meetings remotely or in person.

As is typical, in 2023 meetings, 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); E-Permitting and E-Discharge Monitoring Reports (eDMR); Permit Applications; Small Noncoal Processing Time and Applications in Process; Noncoal Surface Mining Conservation and Reclamation Act (NCSMCRA) Fund Obligations (including revenues and expenditures); Clean Water Fund Mining Fee Revenues; and, Bonding and Bond Forfeitures. The Board also received regular updates from the Bureau of District Mining Operations (BDMO).

MAJOR DISCUSSIONS

In 2023, discussions included:

- New Technical Guidance Documents (TGDs)
- District Mine Offices personnel changes and workload issues
- PA DEP Permitting Reform
- Environmental Justice Policy
- PA Post -Construction Stormwater Management Manual
- E-Permitting and E-Discharge Monitoring Reports
- Clean Water proposed manganese rulemaking
- Bond Forfeitures, mapping and list, dollars
- Department revenue and expenditures
- New Standard Operating Procedures (SOPs)

- Production Report
- Chapter 77 Noncoal Mining regulations revisions
- Other relevant issues

For more details on these discussions and activities, please refer to the minutes from the Board's 2023 meetings, which are found in Appendix D.

AGGREGATE ADVISORY BOARD MEMBERS
(as of April 2023)

Richard Negrin, Chairperson Acting Secretary PA Department of Environmental Protection 400 Market Street, 16 th Floor P. O. Box 2063 Harrisburg, PA 17105-2063	The Honorable Ryan Mackenzie PA House of Representatives 160A East Wing P.O. Box 2134 Harrisburg, PA 17120-2134
Thomas J. Bryan Tri-State River Products, Inc. 100 South 3 rd Street Pittsburgh, PA 15219-1128	The Honorable Edwin Day Pashinski PA House of Representatives 214 Irvis Office Building P.O. Box 202121 Harrisburg, PA 17120-2121
The Honorable Carolyn T. Comitta Senate of Pennsylvania Room 457, Main Capitol Building PO Box 203019 Harrisburg, PA 17120	William M. Ruark Meshoppen Stone, Inc. 524 SR 4015 Meshoppen, PA 18630
Lori Dayton Citizens Advisory Council Specialty Granules, LLC (SGI) 13424 Pennsylvania Avenue, Suite 303 Hagerstown, MD 21742	Thaddeus K. Stevens Citizens Advisory Council Sylvan Glen, Inc. Sylvan Glen Road P.O. Box 61 Gaines, PA 16921
Paul Detwiler, III, Vice-Chairperson New Enterprise Stone and Lime Co. 3912 Brumbaugh Road P. O. Box 77 New Enterprise, PA 16664	R. Timothy Weston Citizens Advisory Council K&L Gates LLP 17 North 2 nd Street, 18 th Floor Harrisburg, PA 17101
William C. Fink Citizens Advisory Council Country View Family Farms (CVFF) 1301 Fulling Mill Road, Suite 3000 Middletown, PA 17057	The Honorable Gene Yaw PA Senate Room: 362 Main Capitol Senate Box 203023 Harrisburg, PA 17120-3023
Robert Hughes Eastern PA Coalition for Abandoned Mine Reclamation (EPCAMR) 101 South Main Street Ashley, PA 18706	

AGGREGATE ADVISORY BOARD ALTERNATES
(as of April 2023)

Emily Eyster Legislative Director & Executive Director PA Senate Room 457, Main Capitol Building P. O. Box 203019 Harrisburg, PA 17120	Ronald Kurpiel, Vice-President/General Manager Hanson Aggregates, Western PA Breakneck Road Connellsville, PA 15425
D. Michael Hawbaker Glenn O. Hawbaker, Inc. 1952 Waddle Road State College, PA 16803	Matthew Osenbach, Executive Director PA Senate Environmental Resources and Energy Committee Room 362 Main Capitol Building P. O. Box 203023 Harrisburg, PA 17120
Michael Hewitt, Program Manager Eastern PA Coalition for Abandoned Mine Reclamation (EPCAMR) 101 South Main Street Ashley, PA 18706	Keith Salador Executive Director Citizens Advisory Council PO Box 8459 13 th FL, RCSOB Harrisburg, PA 17105-8459
William Hughes, Research Analyst PA House of Representatives 214 Irvis Office Building P.O. Box 202121 Harrisburg, PA 17120-2121	John Stefanko, Deputy Secretary Active and Abandoned Mine Operations PA Department of Environmental Protection 400 Market Street, 16 th Floor P. O. Box 2063 Harrisburg, PA 17105-2063
Glendon King, Executive Director PA House of Representatives Environmental Resources and Energy Committee PO Box 202073 Harrisburg, PA 17120-2073	Peter Vlahos, President PA Aggregates and Concrete Association 3509 North Front Street Harrisburg, PA 17110

Appendix A – Senate Bill 1155

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.

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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

Appendix C – 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 D – Board Meeting Minutes from 2023

AGGREGATE ADVISORY BOARD (BOARD)

Wednesday, February 1, 2023

Hybrid Meeting (via Microsoft Teams)

VOTING MEMBERS OR ALTERNATES PRESENT:

Paul Detwiler, III (Member – Enterprise Stone and Lime)
Rep. Ryan Mackenzie (Member – PA House)
John Stefanko (Alternate – DEP – Active and Abandoned Mine Operations (AAMO))
William Ruark (Member – Meshoppen Stone, Inc.)
Thaddeus Stevens (Member – Sylvan Glen, Inc./Citizens Advisory Council (CAC))
D. Michael Hawbaker (Alternate – Glenn O. Hawbaker, Inc.)
William Hughes (Alternate – PA House of Representatives)
Glendon King (Alternate – PA House of Representatives)
Emily Eyster (Alternate – PA Senate)
Matthew Osenbach (Alternate – PA Senate)
Peter Vlahos (Alternate – PA Aggregates and Concrete Association (PACA))
Robert Hughes (Member – Eastern PA Coalition for Abandoned Mine Reclamation (EPCAMR)/State Conservation Commission (SCC))

OTHER ATTENDEES:

Nathan Houtz (DEP – Bureau of Mining Programs (BMP))
Sharon Hill (DEP – BMP)
Greg Greenfield (DEP – BMP)
Geoff Lincoln (DEP – BMP)
Eric Oliver (DEP – BMP)
Melanie Barber (DEP – BMP)
Michaela Plazek (DEP – BMP)
Seth Pelepko (DEP – BMP)
Christopher Catalano (DEP – BMP)
Daniel E. Snowden, D.Ed. (DEP – BMP/Board Liaison)
Jennifer Gulden (DEP – BMP)
Elizabeth Gnazzo (DEP – BMP)
Dan Sammarco (DEP – Bureau of District Mining Operations (DMO))
Amy Berrios (DEP - AAMO)
Patrick Webb (DEP – Bureau of Abandoned Mine Reclamation (BAMR))
Richard Marcil (DEP – Bureau of Regulatory Counsel)
Brian Chalfant (DEP – Policy)
Laura Griffin (DEP – Policy)
Cole Gessner (DEP – Policy)
Josie Gaskey (Guest – PACA)
Jeffrey Iavicoli (Guest – PA Senate)
Jonathan Kolbe (Guest – Allegheny Minerals Corp)
Maximillian Schultz (Guest – McCarter and English, LLP)
Sharon Stauffer (Guest)
Christine Parise (Guest – Widener Law School)

CALL TO ORDER/INTRODUCTIONS

The meeting was called to order at approximately 10:06 a.m. Board members introduced themselves, as did all DEP personnel and other guests in the audience.

Patrick Webb was introduced as the Acting Director for the Bureau of Abandoned Mine Reclamation (BAMR), taking over for Brian Bradley who retired. Patrick addressed questions about the Bipartisan Infrastructure Law (BIL) funding and fee-based projects for bidding, as well as when notification will be made.

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.

APPROVAL OF MINUTES

The Board approved the meeting minutes from the November 22, 2022, meeting without changes.

CORRESPONDENCE

There were no items of correspondence for the Board.

COMMITTEE REPORTS:

The Board's Regulatory, Legislative and Technical (RLT) Committee did not meet since the joint meeting with the Mining and Reclamation Advisory Board's (MRAB) RLT Committee, on March 17, 2022.

DELIVERABLES

Nate Houtz provided the Board with an update on the Full-Time Equivalent (FTE) complement analysis at the 4th quarter meeting, along with further insight regarding permitting/inspection functions. Payroll analysis reports going back to FY 2015, were gathered of the nearly 200 staff persons; categorization of this work continues.

BUREAU OF MINING PROGRAMS UPDATES

The Board was provided with updates on the following topics:

- **Noncoal Applications Breakdown:**
Sharon Hill provided the Board with information regarding the distribution of applications across the District Mining Offices (DMOs) for the 2022 calendar year.
- **Regulatory Agenda:**
The Chapter 77 voting item will be addressed at the end of these updates.
- **Non-Regulatory Agenda:**
The Water Supply Replacement Technical Guidance Documents (TGDs) are continuing to be reworked. Estimated completion dates for the revision to 3 documents are still not available, in part, due to the BMP Technical Section (Division of Permitting and Compliance) having two vacancies. It was also noted that Greg Shuler was promoted to Technical Section Chief for the BMP Permitting and Compliance Division.
- **Technical Items:**
BMP met in November with coal and noncoal industry representatives of an engineering workgroup. The next meeting is being scheduled for March. DEP staff and consultants to continue to develop new engineering information related to surface mining operations.

- **e-Permitting and e-Discharge Monitoring Reports (e-DMR):**
 - DMRs for individual National Pollutant Discharge Elimination System (NPDES) permits and coverage under GP-104 must be submitted through the eDMR system as required by the Federal e-rule. Ms. Hill indicated that compliance is moving along well. The current focus of the e-DMR effort is on permittees that hold individual NPDES permits; however, applicants for the GP-104 are also registering.
 - The end-of-year annual coal and mineral production reports are being submitted at this time. An e-permitting application for submittal is operational. Enhancements for next year are being identified to help make this reporting process easier.
 - Last quarter (January 31st end date), 98 mine operators submitted a total of 438 hydrologic monitoring reports (HMRs). While electronic submission of these reports is not currently required, this e-reporting feature is being utilized.
- **Bonding and Bond Forfeitures:**
 - During this discussion, it was reported that two small noncoal forfeitures would be going out soon; both of these were in Susquehanna County and, were not reflected in the information on the meeting handouts (thus the need to mention them here as an addendum).
- **Noncoal Surface Mining Conservation and Reclamation Act (NCSMCRA) Fund Obligations:**
 - As of the latest report, there is about \$2.6 million in cash collateral, \$3.0 million in payments in lieu of bonds and, over \$10.3 million in bond fund reclamation monies.
 - The NCSMCRA fiscal report showed about \$1.2 million in general operations monies, with about \$2.5 million in collateral and just over \$1.4 million in restricted bond monies.
- **Noncoal Surface Mining & Reclamation Fund:**
The quarterly summary of non-coal expenditures and revenue was reviewed, highlighting the status of funds as of December 31st, 2022.
- **Clean Water Fund (CWF) Mining Fee Revenue:**
CWF revenue for FY 2022 – 2023 (as of Dec 31st) was \$237,614.00. This includes NPDES fees for coal and noncoal, Chapter 105 permit fees and, Wetland Encroachment permit fees.

VOTING ITEM

Ms. Hill shared the final version (after revisions) of the Chapter 77 Regulations Package with the Board. This proposed rulemaking was published in March of 2021. Comments were received from the public and, from the Independent Regulatory Review Commission (IRRC). A final version of the regulatory package was developed with some revisions from draft to final. The revisions, designated by text formatting in the posted document labeled as Annex A, were discussed.

Josie Gaskey, representing PACA (represented on the Board by member Michael Hawbaker) expressed concerns about the revisions to section 77. 293, related to civil penalties, from draft to final. Ms. Gaskey explained that there was confusion regarding two particular issues related to this section:

In 77.293(a) regarding Cessation Orders, subparagraph (1), she suggested that the language be revised as follows:

(1) The Department will assess a civil penalty of up to \$5,000 per day **under the Noncoal Surface Mining Control and Reclamation Act** for each violation of the act or any rule, regulation, order of the Department or a condition of any permit issued under the act which leads to a cessation order.

The Department replied that the "the act" already referred to in (a)(1) is defined in reference to the NCSMCRA in these regulations. Therefore, the additional language would not be necessary.

In 77.293(a) regarding Cessation Orders, subparagraph (2), she suggested that the new language be revised as follows:

(2) If the violation leads to issuance of a cessation order, THE DEPARTMENT WILL ASSESS A CIVIL PENALTY UP TO \$10,000 PER DAY FOR EACH VIOLATION OF THE CLEAN STREAMS LAW.

A request was made to add language to further clarify this section tying together cessation orders and civil penalties. As such, a discussion and further clarification of these matters followed. The Department agreed to add the parallel language from (a)(1) "which leads to a cessation order" to this section, which would serve the same purpose. Additionally, it was requested to note this matter in meeting minutes.

Ms. Gaskey wished to state that PACA's intent was to be clear about when these maximum penalties could be applied under the specified statutes. Ms. Hill requested clarification from Mr. Detweiler, the co-chair, if the comments from Ms. Gaskey/PACA represented the wishes of the Board regarding the suggested language. He affirmed that they did.

There were no other comments regarding the proposed changes from draft to final.

The Board held a roll-call vote. Members present (or their alternates) voted unanimously "yes" to the motion that the Board approve moving forward with this rulemaking as final with the suggested changes. Four members were not present for voting.

NEW BUSINESS

Update from District Mining Offices (DMOs)

Dan Sammarco provided the Board with an update on DMO operations. The DMOs continue to effectively process applications, both recently received and backlogged.

The DMOs are continuing to fill vacant positions. Of the 15 current vacancies, six are in the compliance sections, five permitting staff, 2 MSI positions, 1 in GIS in California DMO, and Environmental Group Manager in Cambria DMO. Interviews for the last position and other vacancies are ongoing. The New Stanton Tech Chief, Jim Edwards, was hired October 24.

Acting Secretary Richard Negrin

John Stefanko reported that he met briefly with Acting Secretary Richard Negrin, who indicated that it was his primary goal to get agency resources it needs. Mr. Stefanko also noted that other key executive positions were still in "Acting" status.

Deliverables

There were no deliverables noted.

ADJOURNMENT/NEXT MEETING

A motion to adjourn was unanimously accepted by the Board. The meeting concluded at approximately 11:10 a.m. The next scheduled meeting is to be held on May 3, 2023 at 10:00 a.m. in Conference Room 105 of the Rachel Carson State Office Building, 400 Market St, Harrisburg, PA 17101. The meeting will also be available remotely via Teams.

AGGREGATE ADVISORY BOARD (BOARD)

Wednesday, May 3, 2023

Hybrid Meeting (via Microsoft Teams)

VOTING MEMBERS OR ALTERNATES PRESENT:

Paul Detwiler, III (Member – New Enterprise Stone and Lime)
Rep. Ryan Mackenzie (Member – PA House)
William Ruark (Member – Meshoppen Stone, Inc.)
Thaddeus Stevens (Member – Sylvan Glen, Inc./Citizens Advisory Council (CAC))
R. Timothy Weston (Member – K & L Gates, LLP/CAC)
John Stefanko (Alternate – DEP – Active and Abandoned Mine Operations (AAMO))
D. Michael Hawbaker (Alternate – Glenn O. Hawbaker, Inc.)
Glendon King (Alternate – PA House of Representatives)
Destiny Zeiders (Alternate – PA House of Representatives)
Sarah Stauffer (Alternate – PA Senate)
Peter Vlahos (Alternate – PA Aggregates and Concrete Association (PACA))
Ronald Kurpiel (Alternate – Hanson Aggregates)

OTHER ATTENDEES:

Nathan Houtz (DEP – Bureau of Mining Programs (BMP))
Sharon Hill (DEP – BMP)
Greg Greenfield (DEP – BMP)
Geoff Lincoln (DEP – BMP)
Eric Oliver (DEP – BMP)
Melanie Barber (DEP – BMP)
Michaela Plazek (DEP – BMP)
Christopher Catalano (DEP – BMP)
Daniel E. Snowden, D.Ed. (DEP – BMP/Board Liaison)
Gregory Shuler (DEP – BMP)
Alexandra Eberly (DEP – BMP)
Dan Sammarco (DEP – Bureau of District Mining Operations (DMO))
Amy Berrios (DEP - AAMO)
Patrick Webb (DEP – Bureau of Abandoned Mine Reclamation (BAMR))
Richard Marcil (DEP – Bureau of Regulatory Counsel)
Ezra Thrush (DEP – Policy)
Cole Gessner (DEP – Policy)
Josie Gaskey (Guest – PACA)
Jeffrey Iavicoli (Guest – PA Senate)
Jonathan Kolbe (Guest – Allegheny Minerals Corp)

CALL TO ORDER/INTRODUCTIONS

The meeting was called to order at approximately 10:03 a.m.
Board members present answered to Roll Call, and Alternates introduced themselves
Dr. Snowden read the names for present DEP personnel and other guests in the audience from the sign-in sheet.
Ezra Thrush, Director of Policy, was introduced to the Board.

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.

APPROVAL OF MINUTES

The Board approved the meeting minutes from the February 1, 2023, meeting without changes.

CORRESPONDENCE

There were no items of correspondence for the board.

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 did not meet since the previous meeting on August 4, 2022.

DELIVERABLES

Nate Houtz, Director for the Bureau of Mining Programs (BMP) reported that work continues obtaining non-coal program staffing figures (i.e., work and activity codes from payroll analysis reports; hours spent on permitting and inspection activities). He anticipates the analysis results will be available for the August 2, 2023 Board meeting.

BUREAU OF MINING PROGRAMS (BMP) UPDATES

The Board was provided with updates 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).
- **Regulatory Agenda**
Ms. Hill reported that the Chapter 77 regulatory package was approved by the Environmental Quality Board (EQB) on April 11, 2023. The regulatory package will be considered by the Independent Regulatory Review Commission on May 18, 2023.
- **Non-Regulatory Agenda**
Ms. Hill reported on the Water Supply Replacement Technical Guidance Documents (TGDs). The Board asked what was going to be changed in these TGDs. Ms. Hill responded that certain parts of these TGDs, such as complaint response, may be moved to Standard Operating Procedures (SOPs), if they are deemed still relevant. The TGDs do not reflect any regulation changes for noncoal sites and the revisions in that context will be as clarifications.
- **Technical Items**
 - Engineering Work Group: An SOP for non-discharge alternatives is being developed.
 - Chapter 105 Permits: The Board requested that input from the DEP Air Quality and Water Programs be considered, especially if there would be any impacts to the aggregates industry; the Board would like to have representatives from these DEP programs attend Board meetings to detail these potential impacts on the aggregates industry.
- **e-Permitting and e-Discharge Monitoring Reports (e-DMR)**
Ms. Hill noted that the priority for the next e-permitting project is the GP-104 application scheduled to be on-line in 2025.

- **Bonding and Bond Forfeitures**

John Stefanko (AAMO) reported that the federal government has funds set aside for a Non-Coal Abandoned Mine Lands (AML) program. As such, he stated that AAMO sent a letter requesting additional funds for this program to Pennsylvania's federal delegation – the funds would be used for covering bond forfeitures at non-coal operations. The Board requested a copy of this letter (a deliverable for the next meeting).

- **Potential License Delays**

Mr. Greenfield reported that due to a recent retirement in the Licensing Section, the processing of mining license renewal applications may take longer than usual. As long as the renewal application is received before the license expires, the “pending” status that is assigned, is treated the same as an active license.

- **Noncoal Surface Mining Conservation and Reclamation Act (NCSMCRA) Fund Obligations**

Summary of expenditures and revenue reviewed by Mr. Greenfield, for the status of the funds through January 31, 2023.

SAFETY ISSUES

Mr. Stefanko mentioned that the District Mining Office's (DMO) Safety Training was being updated to include information on accessing quarries. The safety training for employees will include a protocol for accessing specific non-coal quarrying sites. The Board noted that the Mine Safety and Health Administration (MSHA) was also working on this issue and, recommended that DEP work with the PA Aggregates and Concrete Association (PACA) on this safety training addition.

PA DEP PERMITTING REFORM

Mr. Stefanko mentioned that DEP is developing a 10-point plan for improving permit review efficiency (i.e., Staffing; Rapid Response Team; Office of Environmental Excellence Annual Report; Fast Track; Early Engagement and Pre-Application Consultation Tool (PACT); Streamlining Reviews; Backlog Reduction Plan; Technology Upgrade; Enhanced Training for Staff; and External Plan for Ongoing Stakeholder Engagement). This initiative will apply to all DEP programs that issue permits and, it is a priority for the agency.

UPDATE FROM BUREAU DISTRICT MINING OPERATIONS (BDMO)

Dan Sammarco, Director for BDMO, provided details on vacant positions and hiring; permitting flux (currently there are 25% more permits going out than permit applications coming in; and Permit Decision Guarantees (PDG). He also mentioned two initiatives from the United States Environmental Protection Agency (US EPA):

- **State Permit File Review**: This initiative involves the US EPA reviewing mining permits from various District Mining Offices (DMOs). The elements that will be reviewed include documentation; file uploads; inspections; violations; and enforcement. This review will take place in June 2023.
- **National Pollutant Discharge Elimination System (NPDES) Program Resource Assessment**: This initiative will involve BDMO and BMP and, run parallel to the State Permit File review initiative (also running in June 2023). The main elements that will be evaluated include penalties; public participation; appeals; and staffing levels. The end product from this initiative and the preceding one will be a summary of recommendations. This effort will take about 3 months – US EPA will issue a reply after that time period.

NEW BUSINESS

The Board announced that its next meeting (August 2, 2023) will involve a field trip to the New Enterprise Stone and Lime Co. quarrying facility in Gettysburg. The field trip will take place after the meeting.

ADJOURNMENT/NEXT MEETING

A motion to adjourn was unanimously accepted by the Board. The meeting concluded at approximately 10:53 a.m. The next scheduled meeting is to be held on August 2, 2023, and the audio issues which were apparent for this meeting will be addressed to ensure all virtual attendees are able to hear and participate.

AGGREGATE ADVISORY BOARD (BOARD)

Thursday, September 14, 2023

Hybrid Meeting (via Microsoft Teams)

VOTING MEMBERS OR ALTERNATES PRESENT:

Rep. Edwin Day Pashinski (Member – PA House)
William Ruark (Member – Meshoppen Stone, Inc.)
John Stefanko (Alternate – DEP – Active and Abandoned Mine Operations (AAMO))
D. Michael Hawbaker (Alternate – Glenn O. Hawbaker, Inc.)
Glendon King (Alternate – PA House of Representatives)
Matthew Osenbach (Alternate – PA Senate)
Emily Eyster (Alternate – PA Senate)
Peter Vlahos (Alternate – PA Aggregates and Concrete Association (PACA))
Ronald Kurpiel (Alternate – Hanson Aggregates)

OTHER ATTENDEES:

Nathan Houtz (DEP – Bureau of Mining Programs (BMP))
Sharon Hill (DEP – BMP)
Greg Greenfield (DEP – BMP)
Daniel E. Snowden, D.Ed. (DEP – BMP/Board Liaison)
Alexandra Eberly (DEP – BMP)
Sage Saum (DEP – BMP)
Rachel Colyer (DEP – BMP)
Elizabeth Gnazzo (DEP – BMP)
Randy Shustack (DEP – Bureau of District Mining Operations (BDMO))
Amy Berrios (DEP - AAMO)
Ezra Thrush (DEP – Policy Office)
Maximilian Schultz (DEP – Policy Office)
Justin Dula (DEP – Office of Environmental Justice (OEJ))
Winnie Okelly (DEP – OEJ)
Elspeth Koehle (DEP – OEJ)
Jordi Comas (DEP – OEJ)
Josie Gaskey (Guest – PACA)
Jonathan Kolbe (Guest – Allegheny Minerals Corp)

CALL TO ORDER

The meeting was called to order at approximately 1:05 p.m.

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 present answered to Roll Call from Dr. Snowden, and Alternates introduced themselves.

APPROVAL OF MINUTES

The Board approved the meeting minutes from the February 1, 2023 and May 3, 2023 meetings without changes.

CORRESPONDENCE

There were no items of correspondence for the board.

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 previous meeting on August 4, 2022.

DELIVERABLES

Nate Houtz, Director for the Bureau of Mining Programs (BMP) indicated there was one Deliverable, a report on the Analysis for the Noncoal Workload for BMP and the District Mining Offices (DMOs), and turned the presentation over to Greg Greenfield to explain the charts he put together for the report.

The figures in the report were two-fold. The first chart showed Noncoal work hours per fiscal year 2015 – 2021, which were charged to the program fund. The second chart showed actual cost to the program per fiscal year during the same period.

The categories of the work for the purposes of the report were broken down from over 200 into three: "permitting" and "inspections" (the two main activities) and "other" to make them more manageable.

Ms. Gaskey asked about how the data figures were obtained. Mr. Greenfield indicated that they were requested from fiscal, which were collated into the report. Mr. Stefanko further explained the difference between account codes and work codes which were utilized to track the data.

Another question was raised about what tasks fall under the "other" category. Mr. Houtz indicated that the "other" category was utilized to make the report more manageable considering all the categories involved, and that those tasks were mostly administrative (data management, file cleanup), and not part of compliance or permitting activities.

A final question was raised about the DMO complement data within those same years, to which Mr. Houtz indicated these had been provided at a previous meeting by Seth Pelepko. He stated that today's figures were the follow-up to the previous part of the report covering that complement data. Mr. Stefanko additionally indicated that the DMO complement is down and explained the hybrid charges to coal and noncoal funds by employees.

BUREAU OF MINING PROGRAMS (BMP) UPDATES

The Board was provided with updates 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 January to August 1, 2023.

- **Regulatory Agenda**

Ms. Hill reported that the Chapter 77 regulation updates have been approved as final and will be published in the revised PA Code in November of 2023 (PACodeandBulletin.com).

- **Non-Regulatory Agenda**

Ms. Hill reported that there are no updates to the Non-regulatory agenda. Recent staffing changes mean that the Water Supply Replacement Technical Guidance Documents (TGDs) discussed at the previous Board meeting are not ready to share yet. A draft version is not available at this time and, may not be ready for next meeting. However, the preliminary draft will come to the Board to review before publishing for public comment. Ms. Gaskey asked about the Post-Construction Stormwater (PCS) Manual and whether the water program was working with BMP on this item. Ms. Hill indicated BMP was not involved in review of this TGD. Greg Shuler has been working on the Non- Discharge Alternatives Standard Operating Procedure (SOP), which is close to being completed. It was agreed that the status of the PCS manual would be a follow-up item for the next meeting if there is anything to report.

- **Technical Items**

There were no technical items to report at this time.

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

Ms. Hill indicated digital submittal of Hydrologic Monitoring Reports (HMRs) was being utilized by many operators.

PACA representatives raised a question regarding compliance notices written for operators who are not submitting electronic Discharge Monitoring Reports (eDMRs). Ms. Hill indicated the compliance staff has been contacting operators were not submitting electronically in the last couple months.

Mr. Stefanko additionally noted that the United States Environmental Protection Agency (US EPA) is increasing pressure to ensure electronic submission compliance. He strongly recommended that those in attendance encourage operators they meet with to participate. If any operator needs assistance, they can reach out to obtain help.

Ms. Hill indicated that there are some “loose ends” regarding how information is transferred from our database to the US EPA’s due to the system differences. If a record does not match exactly, it can get rejected and a compliance flag will come up on the US EPA’s end. Automatic flags will be generated by the DEP system if information is late or there is an effluent limit violation. Some issues can be fixed before the data is batched and sent to the US EPA or can be resent later to fix significant noncompliance flags. She indicated that the data staff is getting ready for the next step, to transmit inspection information. The following step would be violation information transmitted.

Mr. Stefanko also added that the Department is going through a modernization process to find the best platform compatible to serve all of DEP’s functions, including e-Permitting. The first meeting with the Request for Proposals (RFP) will be later this month.

- **Bonding and Bond Forfeitures**

Mr. Greenfield reported that there have been no new forfeitures since the last meeting in May.

- **Noncoal Surface Mining Conservation and Reclamation Act (NCSMCRA) Fund Obligations**
A summary of noncoal expenditures and revenue was provided by Mr. Greenfield, along with the status of the funds through end of the FY, June 30, 2023.

UPDATE FROM BUREAU DISTRICT MINING OPERATIONS (BDMO)

Randy Shustack, new Director for BDMO, was introduced to the Board, and provided a brief overview of his history with the Bureau, as well as touching on the staffing changes he will oversee at the DMOs. This will include the near-future postings to permanently fill the positions of Pottsville DMO Manager and Tech Chief among other vacant positions across the DMOs.

Mr. Shustack also noted the impending retirement of Chris Yeakle at Knox which will be posted and filled as quickly as possible.

Mr. Stefanko added that the Department is moving forward with a Program Revision Request (PRR) for additional staffing (up to 10 in the DMOs) to be submitted sometime in October. He noted the continuing challenges of competing with the private sector in filling positions for technical staff salaries at the Commonwealth, as well as the struggle with funding for the coal Title V program, as it also affects the noncoal program due to rising personnel costs.

NEW BUSINESS

Maximillian Schultz, Deputy Policy Director for Energy Resources (since May), was introduced to the Board.

Mr. Stefanko was then asked by the Board to provide an update on the Secretary's Initiative on Permitting Reform. He responded by describing the parts of the ten-point plan currently moving forward that include the following: 1) the Rapid Response permit team; 2) additional staffing under the PRR; and a Priority Permitting Pilot program that is being developed. The pilot program includes two permit actions out of the California DMO (based on the operators who can take greater advantage of the pilot). Details will be finalized in the coming weeks including the eligibility requirements and expectations for the operators and the Bureau. If this pilot program is successful, it will be expanded to other areas including noncoal permits.

Mr. Stefanko mentioned the new Customer Service Chief, Rosetta Carrington Lue, who was recently brought on board at the DEP to facilitate training for internal and external customer service.

DEP ENVIRONMENTAL JUSTICE POLICY

Mr. Stefanko introduced Justin Dula, Director of the Office of Environmental Justice (OEJ), who provided an overview presentation of the Environmental Justice (EJ) Policy and PennEnviroScreen.

Mr. Dula began by explaining how EJ Policy pertains to equity within the DEP's Mission.

The accompanying slides illustrated the historic legacies and disproportionate environmental impacts (redlining, structural racism, Civil Rights) leading to the evolution of regulatory response and (now current) policy for EJ, which help shape statutes and regulations; this presentation will be posted on the Aggregate Advisory Board's website for future reference.

Mr. Dula continued by explaining the Enhanced Public Participation process (within a permitting context) of pre-project outreach targeted toward affected communities including the consideration of language access; the

EJ factors in the processes of Inspection, Compliance and Enforcement; the grants for Community Development and Investment, as well as integration of EJ considerations in Climate Initiatives.

He indicated that current policy updates will require a review every 5 years, with EJ area ID and mapping updates to be no longer than every 2 years (though Mr. Dula indicated they were posed to be able to update this yearly.)

Mr. Dula went on to explain the PennEnviroScreen online mapping tool, which was developed to help the public visualize the EJ areas in the Commonwealth. The data compiled for the online tool calculated environmental indicators (land, water, air quality) with socioeconomic and community health concerns of the population to identify disproportionately affected, thus EJ areas.

Mr. Dula's presentation concluded with a screen showing contact information for statewide staff of the OEJ, as well as further contacts for regional coordinators, and he welcomed questions from the Board.

- A request was made by the Board for further explanation of the "Trigger" Permit list and "Opt-in" Projects: first, how the OEJ identified or selected specific industries for the Trigger Permit list, and whether an industry can get into or off of the lists; second, who makes the decision for Opt-in.
 - Mr. Dula responded to the first concern that within the permitting process, there is already a built-in requirement for public notification and the opt-in ensures the community is made aware of permitting which may affect them; the policy would not change the requirements currently in place for permitting applicants, and policy is not targeting an industry, but rather a type of permit.
 - To the second item, he stated that it is a group decision for opting in. OEJ consults with regional bureau staff and permit reviewer to get more info, then works with government liaison to ID legislative or local municipal concerns/interest, and the regional comms manager for local press interest. Mr. Dula wanted to impress that there are no additional requirements for the permittee; DEP always has the ability to include public meetings or hearings as part of our permitting process. EJ and streamlining the permitting process are both priorities, although for a long time they had been seen as oppositional.
- A question was raised by the Board as to how the EJ Policy might affect a pre-application part of the permit application process. Nate Houtz indicated that EJ would normally come in only when the permit application was submitted; Mr. Dula agreed, and indicated the OEJ would certainly be happy to take part at the pre-app stage if anyone has questions.
- The Board asked for confirmation that the EJ and public meetings were symbiotic, happening at same time, and Mr. Houtz confirmed this is the goal.
- A request was made to ensure the meeting minutes reflected all of these questions and answers, which was confirmed by Mr. Stefanko that they would.
- A concern was raised that a community has no responsibility in determining their being affected, or verification of concerns which would be raised in a public meeting; Mr. Dula reiterated that the community concerns would not deny a permit being issued, there is no additional statutory authority, but rather that the EJ works with the permittee to address the community concerns, or work with the municipal authority to address zoning issues.
- There was a concern that this EJ Policy would create another layer/more work; Mr. Stefanko indicated this was to ensure the community has the voice they should have had, Mr. Dula agreed with this assessment, and indicated that there has been an increase in staffing for the OEJ which will be able to handle the engagement with the communities.

- Another concern was raised regarding persons from outside a community representing persons within a community, though Mr. Dula indicated that they are unable to regulate that.
- Matthew Osenbach was curious about statutory or regulatory authority to designate EJ areas. Mr. Dula indicated there is not additional statutory or regulatory burden on a permit applicant in regard to the EJ areas.
- A request was made to confirm that this Policy would not cause the permitting process to be made longer; Mr. Stefanko indicated that the purpose of the Policy was simply to help make the process better, not longer, and Mr. Dula agreed.
- A question was raised as to what if there was further public outcry beyond the public review process and permit issuance, whether there were further statutory authority; Mr. Dula indicated that the EJ Policy does change legal standing in community to pursue further action already accorded them, the Policy is simply to improve DEP's internal process and make it more equitable. Mr. Stefanko reiterated the statutes and regulations within the permitting process that we need to abide by, and the EJ Policy would not affect.
- There was a question about the language in the EJ Policy stating the applicant "should" do, but would there be any penalties if they did not follow? Mr. Dula reiterated that the permit issuance would not be affected, as long as they met the requirements to issue the permit; Mr. Stefanko agreed this to be the case.
- A question to confirm that the methodology in the EJ Policy resembled California's, and Mr. Dula affirmed that the California Policy was used to model PA's EJ Policy because the State of California was the first to create one.
- A clarification about EJ working with local government was requested, as it sounds political; Mr. Dula indicated that the EJ would be assisting the local governments to understand resources available to them, not directing them how to zone.

ADJOURNMENT/NEXT MEETING

A motion to adjourn was unanimously accepted by the Board. The meeting concluded at approximately 2:36 p.m. The next scheduled meeting is to be held on November 1, 2023 at 10:00 a.m., in Conference Room 105 of the Rachel Carson State Office Building in Harrisburg.

AGGREGATE ADVISORY BOARD (BOARD)

Wednesday, November 1, 2023

Hybrid Meeting (via Microsoft Teams)

VOTING MEMBERS OR ALTERNATES PRESENT:

Rep. Ryan MacKenzie (Member – PA House)

Paul Detwiler, III – (Member – New Enterprise Stone and Lime Co., Inc.)

William Ruark (Member – Meshoppen Stone, Inc.)

R. Timothy Weston – (Member – K & L Gates, LLP/Citizens Advisory Council (CAC))

Thaddeus Stevens – (Member – Sylvan Glen, Inc. (SGI)/CAC)

John Stefanko (Alternate – DEP – Active and Abandoned Mine Operations (AAMO))

D. Michael Hawbaker (Alternate – Glenn O. Hawbaker, Inc.)

Glendon King (Alternate – PA House of Representatives)

Matthew Osenbach (Alternate – PA Senate)

Emily Eyster (Alternate – PA Senate)

Peter Vlahos (Alternate – PA Aggregates and Concrete Association (PACA))
Ronald Kurpiel (Alternate – Hanson Aggregates)

OTHER ATTENDEES:

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)
Alexandra Eberly (DEP – BMP)
Sage Saum (DEP – BMP)
Rachel Colyer (DEP – BMP)
Randy Shustack (DEP – Bureau of District Mining Operations (BDMO))
Amy Berrios (DEP - AAMO)
Maximilian Schultz (DEP – Policy Office)
Richard Marcil (DEP – Regulatory Council)
Josie Gaskey (Guest – PACA)
Jonathan Kolbe (Guest – Allegheny Minerals Corp)

CALL TO ORDER

The meeting was called to order at approximately 10:00 a.m.

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 present answered to the roll call from Dr. Snowden, and Alternates introduced themselves.

APPROVAL OF MINUTES

The Board approved the meeting minutes from the September 14, 2023, meeting minutes without changes.

CORRESPONDENCE

There were no items of correspondence for the board.

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 previous meeting on August 4, 2022.

DELIVERABLES

Nate Houtz, Director for the Bureau of Mining Programs (BMP) indicated there was one Deliverable, a question about PA Post-Construction Stormwater Management Manual: the provision states that any restoration/reclamation activities under the mining permit are covered by the mining permit, referencing the chapters of the mining regulation.

BUREAU OF MINING PROGRAMS (BMP) UPDATES

The Board was provided with updates 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 January to September 30, 2023.

- **Regulatory Agenda**

Ms. Hill reported that there is no rulemaking currently being undertaken.

- **Non-Regulatory Agenda**

Ms. Hill reported that there are no updates to the Non-regulatory agenda. No Technical Guidance Documents (TGD's) are ready for review at this time. Ms. Hill reiterated that when any revised or new TGDs are ready, they would be presented to the Board before going to public comment.

- **Technical Items**

There were no technical items to report at this time.

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

Ms. Hill indicated no updates to the e-Permitting at this time.

- Mr. Stefanko wanted to inform the Board that the Environmental Justice Policy (EJ) comment period has been extended with three additional public meetings, and if anyone had questions about that topic to let him know.

- **Licensing updates**

Ms. Hill indicated that the Mine Operators License section is nearly fully staffed, and the new Supervisor will be starting later in November. A new webpage and email have been provided for individuals who have questions or wish to send their certificates of insurance via email. With the publication of the Chapter 77 revisions, liability insurance minimums for noncoal operators have been changed – the limits are raised. BMP will be advising license holders of the change, which will be instituted beginning January 1, 2024. It was also reported that the fee structure for noncoal permits will be changing in January 2024 as previously published in regulations. BMP is currently updating information on the website to reflect this change in addition to notifying the operators of the change as well. Ms. Hill also indicated there is a new tile on the BMP main webpage sidebar for anyone to click through for program updates at any time.

- **Bonding and Bond Forfeitures**

Mr. Greenfield reported that there has been one new forfeiture since the last meeting, bringing the total to three small noncoal forfeitures this year. In the interest of transparency, Mr. Greenfield wanted to bring this to the Board's attention: the latest was one which was declared back to 2007 or 2008 but which had never been collected, and this was just rectified. All three were in Susquehanna County.

Mr. Stefanko reported that he recently attended the Interstate Mining Compact Commission (IMCC) Meeting and the National Association of Abandoned Mining (NAAM) Meeting where there was much discussion about the hard rock Abandoned Mine Lands (AML) Program on the national level. This program is underutilized, with the current proposed budget being \$10 million and, it potentially could be accessed by the Commonwealth. Based on their criteria, we would be eligible for some of the funding to

help address the forfeitures and historical level of noncoal (“hard rock”) sites left un-reclaimed in the Commonwealth.

Mr. Greenfield reviewed the forfeiture liabilities as of 2021, which will be recalculated once the funding that Mr. Stefanko was referring to is distributed. There are four sites currently at the top of the list to address once that money becomes available.

- **Noncoal Surface Mining Conservation and Reclamation Act (NCSMCRA) Fund Obligations**

A summary of noncoal expenditures and revenue was provided by Mr. Greenfield, along with the status of the funds as of this FY September 30.

A question by the Board was posed regarding if the costs for the upcoming year were anticipated to be at a similar level; Mr. Stefanko indicated that the costs were increased due to the new AFSCME personnel agreement voted in this past fall, which will rise about 20% over the next 4 years.

AGENCY UPDATE:

Mr. Stefanko informed the Board that DEP Secretary is on extended medical leave until December 9, at which time he will be resigning. Jessica Shirley will be the Interim Acting Secretary until further notice.

Mr. Stefanko reviewed information for the Board about the Agency Program Revision Requests (PRRs) which are submitted to the Governor’s Office in advance of budget preparation to be announced in February 2024. Of a total of eleven PRRs, they’ve requested further information on eight. One was for additional staffing for the Bureau which Mr. Stefanko and Mr. Shustack have been working on. Nine positions have been requested and we are awaiting the decisions.

UPDATE FROM BUREAU DISTRICT MINING OPERATIONS (BDMO)

Randy Shustack, new Director for BDMO, began by relating information on the vacancies.

Mr. Shustack noted that selections have been made, names sent down for approval for the DMO Manager in Pottsville, and the Environmental Program Manager for Knox. Mr. Shustack noted that they will be looking more closely at the remaining vacancies to determine if positions might need to be reclassified based on individual District Office needs, three positions so far have been reclassified. Mr. Shustack also noted the continuing difficulty bringing in candidates to fill positions, though four positions have been filled since the last Board meeting.

Mr. Stefanko added information that under current administration, we have been moving ahead to fill as many vacancies as possible and are posting more positions than what is available for the existing agency compliment, in anticipation of continuous vacancy turnover, in order to fill the positions quickly when vacated. Mr. Stefanko reiterated the struggle of meeting salary expectations for incoming tech candidates. Salary adjustments are considered on a case-by-case basis to bring new staff in above the minimum salary, but managers need to keep in mind how that may affect existing staff and future hiring.

The Board questioned whether there was one DMO, or several, at a more severe staffing shortage, and Mr. Shustack indicated Cambria office seems to be in the most need. Mr. Stefanko indicated staff is being lost to BAMR, or the federal Office of Surface Mining (OSM), due to pay differential which can be offered, and which creates a trickle-down effect across the Bureau.

NEW BUSINESS

Mr. Stefanko moved to the topic of the 2022 Annual Report. Ms. Gaskey indicated she and Dan are working on it, and have it in draft form, currently.

Mr. Stefanko moved to establish dates for the next year's meetings and opened it to the Board to provide comment on any conflicts with proposed dates as follows (with the understanding that a field trip will be determined once the meetings get underway in 2024). It was noted that these initial proposed dates may change due to conference room availability. The proposed meeting dates selected were as follows:

- February 7, 2024 (*later updated to February 21, 2024, due to conference room availability)
- May 1, 2024
- August 7, 2024 (*later updated to August 28, 2024, due to conference room availability)
- November 6, 2024

Mr. Stefanko then opened the floor to any questions or concerns from the Board.

The Board had a question regarding permitting reform. Mr. Stefanko related to the Board that the pilot priority permitting launched previous Friday with two permits from the California office being rolled out; fees were calculated at cost to BMP (based on overtime so as not to affect current permitting in the queue) fee structure revised based on anticipated time to complete each step of the process with each position and permitting steps currently involved, recalculated.

There are twofold goals during the pilot program to evaluate: does it work/do they wish to take advantage of it; 2 shortened time frames/do they work. BMP and DMO need to see who will take advantage of this pilot program, and how it goes through end of year/end of 1st quarter of next year before any clear evaluation can be made on how this is progressing.

There are specific requirements, such as: elimination of two technical deficiency letters, now only one; and having the 21-day turnaround shortened to 10 days. If this works, it may be able to be expanded to other authorizations, such as possibly noncoal. Mr. Stefanko has been tracking the metrics of the pilot program so far and, will be sharing the data with Mr. Shustack.

A question was raised about what would happen if a company in the priority permitting application project is rejected (such as if a technical deficiency letter is returned) and whether this will result in their being moved out of the priority queue, will that mean they get moved to the bottom of the queue when re-submitting their application. Mr. Stefanko deferred to Mr. Shustack, who indicated that the company would not be at the bottom of the queue; however, they would lose the priority status within that permitting processing.

There was also a question about the research into the new permitting platform, and when that might be getting closer to being completed. Mr. Stefanko indicated that the modernization to a new permitting platform is moving forward, but the desire is to make sure the ePermitting can fit in and be expandable, so that we do not end up with an obsolete platform in short order after it is introduced.

ADJOURNMENT/NEXT MEETING

A motion to adjourn was unanimously accepted by the Board. The meeting concluded at 10:50 a.m. The next scheduled meeting is to be held on February 21, 2024, at 10:00 a.m., in Conference Room 105 of the Rachel Carson State Office Building in Harrisburg.