

AGGREGATE ADVISORY BOARD (BOARD)
Tuesday, November 10, 2015
Harrisburg, PA

Rachel Carson State Office Building
Conference Room 105

This meeting was held in an Openscape Web/Conference Call format. Most of the meeting attendees shown below participated in person, except where noted.

VOTING MEMBERS OR ALTERNATES PRESENT

Richard Morrison, Department of Environmental Protection (DEP): Deputy Secretary, Office of Active and Abandoned Mine Operations (Alternate, Chairman)

Thomas Bryan, Bryan Materials Group (Member)

Terry Dayton, Citizens Advisory Council (CAC) (Member)

Richard Fox, Executive Director, Senate Environmental Resources and Energy Committee (Alternate)

Mike Hawbaker, Glenn O. Hawbaker, Inc. (Alternate)

Katherine Hetherington-Cunfer, Acting Executive Director of the CAC (Alternate)

Robert Hughes, Eastern PA Coalition for Abandoned Mine Reclamation (EPCAMR) (Member) (via Openscape)

Jonathan Lutz, Executive Director, House Environmental Resources and Energy Committee (Alternate)

Representative Sandra Major, PA House of Representatives (Member) (via Openscape)

Adam Pankake, Office of Senator Gene Yaw (Alternate)

Todd Schmidt, PA Bluestone Association (PBA) (Alternate)

Mark Snyder, Pennsy Supply, Inc. (Member, Vice-Chairman)

Patty Tamayo, Office of Representative Bryan Barbin (Alternate)

Peter T. Vlahos, PA Aggregate and Concrete Association (PACA) (Alternate)

OTHER ATTENDEES

Bill Allen, DEP Bureau of Mining Programs

Tom Callaghan, DEP Bureau Director, Mining Programs

Tammy Cree, DEP Office of Active and Abandoned Mine Operations

Laura Edinger, DEP Policy Office

Josie Gaskey, PACA

Jennifer Gulden, DEP Bureau of Mining Programs

Sharon Hill, DEP Bureau of Mining Programs

Paul Pocavich, DEP Bureau of Mining Programs

Jessica Shirley, DEP Policy Office

Dan Snowden, DEP Bureau of Mining Programs/Aggregate Advisory Board Liaison

CALL TO ORDER/INTRODUCTIONS

Board Chairman Morrison called the meeting to order at 10:00 a.m. All persons in attendance, both in person and on Openscape, introduced themselves.

APPROVAL OF MINUTES

There was one revision to the minutes from the Board's August 12th, 2015 meeting –Mr. Bryan's affiliation was amended. He is with Bryan Materials Group - his affiliation had been listed as PACA. Once this revision was noted, the Board voted unanimously to approve the minutes from its August 12th, 2015 meeting.

CORRESPONDENCE

No correspondence was reported for the Board.

ACTION ITEMS (AUGUST 12TH, 2015 MEETING)

Mr. Morrison acknowledged the action items from the Board's August 12th, 2015 meeting. The action items for the Board's Regulatory, Legislative and Technical (RLT) Committee to set up an initial Committee conference call; select a Committee chairperson; adopt the Committee's mission statement; and set dates for initial RLT Committee meetings were completed.

The action item regarding Permit Decision Guarantee (PDG) applications is still under review. The main point of discussion is application quality – regarding non-coal applications under the PDG program that have been identified as being incomplete and have since become pre-applications. Mr. Callaghan stated that he had asked William Plassio, Bureau Director, DEP District Mining Offices (DMO), to attend an upcoming Board meeting to discuss these applications. Therefore, this action item is likely to be revisited at the next Board meeting.

The action item regarding bond rate guidelines (i.e., specifying what types of information to look for with regards to full-cost bonding details) is related to inequities. Exposure to spoil piles is a key concern and a need was expressed to upgrade bonds for sites with large spoil piles. Bond rate guidelines will be reviewed in 2016, both for coal and non-coal sites.

COMMITTEE REPORTS

Mr. Snyder provided a summary report of the RLT Committee's September 22nd, 2015 and October 23rd, 2015 meetings with DEP. Although the information that the Committee requested from DEP was provided, the Board additionally requested a cost analysis (income statement/balance sheet) to make a determination of the overall cost to run DEP's mining program. The RLT Committee plans to hold meetings to further discuss costs in December 2015 and January 2016, prior to the next full Board meeting in February, 2016.

UPDATES

Mr. Allen presented on the non-coal mining program:

- **Technical Guidance (Non-Regulatory Agenda):**
 - *Pre Applications, Blaster's License Suspension, Coal Ash, General Permit (GP) Materials, Civil Penalties and Government Financed Construction Contracts (GFCCs): All undergoing further developments.*
 - *Engineering Manual: Under Regulatory Counsel review (there are some permitting issues regarding the Soil Erosion Manual (Erosion and Sedimentation Control Book) and the Stormwater Manual (Chapter 102).*
 - *Reclamation Fill: Drafting is complete. Please refer to page 6 of these minutes for additional information.*
- **Regulatory Agenda:**
 - *Chapters 210/211 (Explosives/Blasting): reviewed by the Environmental Quality Board (EQB); currently undergoing review by the Office of Attorney General.*
 - *Non-Coal Program and Fees: Please refer to the presentations below.*
- **National Pollutant Discharge Elimination System (NPDES) Permitting:**
 - *There have been 624 draft permits sent to US EPA, as of 10/30/15; 32 of these were non-coal draft permits. US EPA commented or objected on 349 of these draft permits (8 of these were non-coal).*
 - *6 non-coal permits have been issued and 2 more could be issued (all with comments); additionally, 21 permits have been issued, with 1 permit that could be issued and, 1 permit pending (30 days), all with no comments (including 16 "No Comment" letters).*
 - *Outstanding NPDES permitting issues include the following (most of these issues are related to coal permit applications):*
 - Checklist
 - Effluent Characterization
 - Detection limits
 - US EPA Staff Turnover
 - Monthly Calls (ceased at the moment due to US EPA staff turnover)
- **Historical Non-Coal Permit Application Progress:** For industrial minerals permit applications, 409 of 444 such applications have been disposed (92.1% of the total) – all from the Pottsville District Mining Office. There are 35 industrial minerals permit applications still outstanding (7.9% of the total), and 17 of these (3.8% of the total; 48.6% of the outstanding applications) are permit renewal applications.

- **PDG Applications (Non-Coal):**

- On-Time Performance for PDG Applications (District Mining Offices (DMOs)):

- Pottsville DMO: 63.1% on-time (674 applications received, 404 issued, 19 withdrawn and 11 returned or denied).
 - New Stanton DMO: 68.1% on-time (124 applications received, 91 issued, 2 withdrawn, and 2 returned or denied)
 - Cambria DMO: 77.1% on-time (157 applications received, 122 issued, 1 withdrawn, and 5 returned/denied).
 - Moshannon DMO: 88.3% on-time (238 applications received, 188 issued, 10 withdrawn, and 10 returned or denied).
 - Knox DMO: 91.3% on-time (378 applications received, 334 issued, 8 withdrawn and 4 returned or denied)

- Outstanding PDG Applications (as of October 29, 2015):

- There are 360 PDG applications pending (including 31 small operator permits; 83 large operator permits; and 153 NPDES permits; the other 93 are a combination of general permits, blast plans, completion reports, and bonding increments).
 - The average time elapsed: 298 days.

- Overdue PDG Applications (as of October 29, 2015):

- Pottsville DMO: 241 applications pending (30-day review) and 136 applications overdue (317-day review).
 - Moshannon DMO: 30 applications pending (80-day review) and 8 applications overdue (175-day review).
 - New Stanton DMO: 28 applications pending (156-day review) and 12 applications overdue (289-day review).
 - Cambria DMO: 29 applications pending (120-review) and 13 applications overdue (216-day review).
 - Knox DMO: 32 applications pending (94-day review) and 8 applications overdue (243-day review).
 - As an action item under this section: The Board recommended that an assessment be undertaken concerning the focus of the engineers (submitting the applications) and the focus of DEP (reviewing the applications) during permit application preparation and review. The Board is looking at what assistance it can offer during these permit application submission and review exercises.

- **Non-Coal Fund (Fee and Related Revenues)** (Note: The Board requested month-by-month information on non-coal revenues; this will be discussed further with the Board's RLT Committee):

- *Fee Revenue (3rd Quarter 2015): In the areas of Administrative Fees, Permitting Fees, and Licensing Fees, the following were applicable for the 3rd quarter of the 2015 calendar year:*
 - July 2015: \$70,000.00 (administrative fees); \$67,760.00 (permitting fees); and \$10,893.00 (licensing fees).
 - August 2015: \$141,525.00 (administrative fees); \$26,760.00 (permitting fees); and \$18,800.00 (licensing fees).
 - September 2015: \$61,775.00 (administrative fees); \$21,635.00 (permitting fees); and \$13,750.00 (licensing fees).
 - Totals: \$273,300.00 (administrative fees); \$116,255.00 (permitting fees); and \$43,443.00 (licensing fees).
- *Other Revenue (3rd Quarter 2015): In the areas of Penalties, Interest and Payment In Lieu of Bond (PILB), the following were applicable for the 3rd quarter of the 2015 calendar year:*
 - July 2015: \$7,175.00 (penalties); \$15,190.24 (interest); and \$3,733.00 (PILB).
 - August 2015: \$6,250.00 (penalties); \$13,647.99 (interest); and \$24,830.63 (PILB).
 - September 2015: \$21,250.00 (penalties); \$41,822.62 (interest); and \$30,682.16 (PILB).
- *Clean Water Fund (CWF) Mining Fee Revenue: The revenue listed here covers both coal and non-coal fees, along with NPDES and Chapter 105 fees. For fiscal years (FY) 2012-2013 to 2015-2016 (to date), the following were applicable:*
 - FY 2012-2013: \$247,800.00
 - FY 2013-2014: \$523,296.00
 - FY 2014-2015: \$474,729.00
 - FY 2015-2016 (as of September): \$129,718.00
- **Non-Coal Program Overview/Bonding and Bond Forfeitures:**
 - *Facilities (Inspectable Units, as of October 30, 2015):*
 - Small Operations (< 2,000 tons/year): 1,145 (inspected twice annually).
 - Small Operations (< 10,000 tons/year): 335 (inspected twice annually).
 - Large Operations: 812 (inspected 4 times per year).
 - GP 103 Operations: 10 (inspected 4 times per year).
 - GP 105 Operations: 54 (inspected twice annually).
 - Underground Operations: 9 (inspected 4 times per year).
 - *Types of Applications (as of October 30, 2015):*
 - Licenses: 1,031 (including 27 new ones)

- Large Operations (new): 9
- Small Operations (new): 37
- NPDES (new): 12 (along with 45 GP 104)
- NPDES (renewal): 50
- Pre-Applications: 7
- Non-Coal Surface Mining Conservation and Reclamation Act (NSMCRA) Fund Obligations (as of October 30, 2015):
 - Cash Collateral: \$2,055,457.87
 - PILB Underwritten: \$2,090,597.05
 - Bond Forfeiture (BF) Reclamation: less than \$4.3 million
 - NSMCRA Fund Balances (as of September 30, 2015):
 - ❖ General Operations: \$6,844,563.65
 - ❖ Collateral: \$1,891,306.63
 - ❖ Restricted Bond: \$675,017.52
- Bond Forfeitures: For the years 2010 to 2015, the breakdown for bond forfeitures for small and large operators was as follows:
 - 2010: 8 small operator bond forfeitures; no large operator bond forfeitures.
 - 2011: 1 small operator bond forfeiture; no large operator bond forfeitures.
 - 2012: 11 small operator bond forfeitures; 2 large operator bond forfeitures.
 - 2013: 15 small operator bond forfeitures; no large operator bond forfeitures.
 - 2014: 32 small operator bond forfeitures; 1 large operator bond forfeiture.
 - 2015 (as of October 2015): 34 small operator bond forfeitures; 3 large operator bond forfeitures.

USE OF RECLAMATION FILL TECHNICAL GUIDANCE DOCUMENT

Ms. Hill provided an update on DEP Technical Guidance Document 563-2000-301 (Use of Reclamation Fill at Active Non-Coal Sites). She noted that this document was completed through a revision of Appendix A (Sampling and Analyses for Material to be Used as Reclamation Fill). She stated that the Bureau of Mining Programs had worked with the Bureau of Environmental Cleanup and Brownfields (per the Act 2 Program) to set up analytical parameters that were based on the existing Act 2 Statewide Health Standards. She also reported that the guidance document would be reviewed by the Cleanup Standards Scientific Advisory Board (CSSAB) at that advisory committee's December 16th, 2015 meeting.

CLEAN POWER PLAN PRESENTATION

Ms. Shirley provided information about the US EPA's Clean Power Plan and Pennsylvania's efforts to develop a similar plan of its own. She explained the Clean Power Plan as well as plan

development and goals specific for Pennsylvania. Ms. Shirley also noted that DEP is accepting comments on Pennsylvania's implementation of the Clean Power Plan through November 12th, 2015. For additional information, Ms. Shirley's presentation on the Clean Power Plan is available online.

OVERVIEW OF THE DEP REGULATORY PROCESS

Ms. Edinger provided an overview of DEP's regulatory process, walking the Board through the development and review of proposed and final regulations. She highlighted the roles of the Environmental Quality Board (EQB), the Bureau of Coal Mine Safety (BCMS), the Governor's Policy Office (GPO), the Office of General Counsel (OGC), the Office of Budget, the Attorney General's Office, the Independent Regulatory Review Council (IRRC), and, relevant advisory committees, at each step of the process for proposed and final rulemakings. She included information regarding public participation in the regulatory review process as well.

BOARD MEETINGS FOR 2016

The Board set the schedule for its 2016 meetings, which will be held at 10:00 a.m. on the following dates:

- *February 3rd, 2016*
- *May 4th, 2016*
- *August 3rd, 2016* (there will be a field trip preceding this meeting, on August 2nd, 2016)
- *November 2nd, 2016*

OPEN TIME

Mr. Hawbaker commented on the Clean Power Plan and its potential impact to coal plants. His concern was whether any consideration would be given for the reclamation activities that occur in conjunction with waste coal plant operations. Mr. Callaghan mentioned that a 2-year grant from the Office of Surface Mining (OSM) was being sought for this. It was also stated that the US EPA did consider cost factors to coal plants when developing its Clean Power Plan.

ADJOURNMENT

The Board adjourned its meeting at 12:00 p.m.