**MINUTES**

**AGGREGATE ADVISORY BOARD (BOARD) MEETING**

**November 2, 2016**

**PA DEP Southcentral Regional Office**

**909 Elmerton Avenue**

**Harrisburg, PA 17110**

**VOTING MEMBERS OR ALTERNATES PRESENT:**

Rep. Bryan Barbin (PA House of Representatives - on conference call)

Michael Hawbaker (Glenn O. Hawbaker and Associates/PA Aggregates and Concrete

 Association (PACA) - on conference call)

Katie Hetherington-Cunfer (Citizens Advisory Council (CAC) -

 on conference call)

Jonathan Lutz (PA House of Representatives)

Joanne Manganello (PA Senate)

William Ruark (Meshoppen Stone, Inc.)

Todd Schmidt (PA Bluestone Association)

Mark Snyder (Pennsy Supply)

John Stefanko (DEP; Board Chairperson)

Peter Vlahos (PACA)

**Other Attendees:**

Bill Allen (DEP – Mining Programs)

Abbey Cadden (DEP – Policy Office)

Tom Callaghan (DEP – Mining Programs)

Bruce Carl (DEP – Mining Programs)

Laura Edinger (DEP Policy Office – on conference call)

Josie Gaskey (PACA)

Jennifer Gulden (DEP – Mining Programs)

Darrel K. Lewis (Allegheny Mineral Corporation)

Matthew McClure (Specialty Granules, Inc.)

Shuvonna Perry (DEP – Mining Programs)

Paul Pocavich (DEP – Mining Programs)

Daniel E. Snowden, D.Ed. (DEP – Mining Programs; Board Liaison)

**Call to Order/Introductions**

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

**PACA ANTI-TRUST STATEMENT**

The PACA Antitrust Statement was read by Mr. Snyder.

**Approval of Minutes**

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

**Correspondence**

Mr. Stefanko inquired as to whether the Board had received any correspondence since its last meeting. Board Liaison Dr. Snowden stated that no correspondence had been received during that period.

**Committee Reports:**

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

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

**BUREAU OF MINING PROGRAMS UPDATES**

Mr. Allen reported on the following topics:

* **Technical Guidance:** The one item mentioned among others was the Engineering Manual. An internal DEP meeting will be held regarding this technical guidance document, with an emphasis on the Chapter 102 requirements.
* **Regulatory Agenda:**  Mr. Allen noted that the Chapter 210 and Chapter 211 Regulations published on February 27, 2016 would be discussed with the Board later in the meeting.
* **National Pollutant Discharge Elimination System (NPDES) Permitting:** Mr. Allen provided information about non-coal NPDES permitting in terms of:
* Permits sent to the United States Environmental Protection Agency (US EPA) for approval, either with or without comments, including permits that are pending.
* Remaining NPDES permitting issues, including:
* Checklist (this has not been finalized as yet).
* Sufficiently Sensitive Methods (addressing the matter of protection limits. for pollutants, where the “<” (less than) values are not low enough).
* Monthly Calls with US EPA: scheduling these has been a challenge.
* E-Reporting Rule: This matter relates to transmitting NPDES status reports from the State database to the Federal database.
* Whole Effluent Toxicity Testing (WETT): This matter is close to resolution with the California District Mining Office, where there are some high Total Dissolved Solids (TDS) thresholds for impaired waters as related to aquatic life protections.
* US EPA Proposed Regulations (May 18, 2016): Some changes are proposed for how NPDES permits are managed and tracked. US EPA and PA DEP currently use different coding schemes in managing and tracking NPDES permits).
* **Permit Decision Guarantee (PDG) and Historical Application Progress:** (Note: Following this presentation, the Board made a request for DEP to provide a summary of PDG applications broken down by year). Mr. Allen provided information regarding the PDG in the non-coal permitting program in terms of:
* Permit applications disposed.
* Permit applications remaining for action.
* On-time PDG application performance percentages among District Mining Offices and permit types.
* Overdue PDG application performance percentages among District Mining Offices and permit types.
* **Revenues and Expenditures:** (Note: During this presentation, the Board requested expenditure information from years prior to 2016, along with expenditure sources, in order to obtain a better representation of overall non-coal program expenditures). Mr. Allen reported the status of non-coal program revenues and expenditures in terms of:
* Revenue Sources (i.e., administrative, permit and license fees, penalties, payments in lieu of bond and interest – all for the 3rd quarter of 2016).
* Expenditures (between October 2015 and September 2016 and, monthly for the 3rd quarter of 2016).
* Additional revenues from the Clean Water Fund (between FY 2012-2013 and FY 2016-2017 (to date)).
* **Program Overview:**  Mr. Allen provided information on the status of non-coal facilities and applications in terms of:
* Numbers of inspectable units (i.e., large and small facilities; operators; and underground facilities).
* Non-Coal application types (i.e., licenses, large facilities, small facilities, NPDES (new and renewals), pre-applications).
* **Non-Coal Surface Mining Conservation and Reclamation Act (NCSMCRA) Fund Obligations:** Mr. Allen reported on the status of the NCSMCRA fund in terms of:
* Fund obligation sources (i.e., cash collateral, payments in lieu of bond and bond fund reclamation) and;
* Location for NCSMCRA monies (i.e., general operations, collateral and restricted bond funds).
* **Bonding and Bond Forfeitures:** Mr. Allen provided information on the status of the non-coal bonding program, with emphasis upon the following:
* Number of bond forfeitures for large operators and small operators, between 2010 and 2016.
* Current bond forfeiture projects.

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

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

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

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

**NON-COAL BOND RATE GUIDELINES**

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

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

**NEW BUSINESS**

The following matters were discussed during this period:

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

**OPEN TIME**

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

**ADJOURNMENT/NEXT MEETING**

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