**MINUTES**

**AGGREGATE ADVISORY BOARD (BOARD) MEETING**

**February 1, 2017**

**Rachel Carson State Office Building**

**14th Floor Conference Room, 400 Market St**

**Harrisburg PA, 17105**

**VOTING MEMBERS OR ALTERNATES PRESENT:**

Rep. Bryan Barbin (PA House of Representatives – Member)

Thomas Bryan (Bryan Materials Group – Member)

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

D. Michael Hawbaker (Glenn O. Hawbaker and Associates – Alternate)

Katie Hetherington-Cunfer (CAC), Executive Director – Alternate) (via conference call)

Paul Detwiler, III (New Enterprise Stone and Lime Co., Inc. - Alternate)

Jonathan Lutz (PA House of Representatives – Alternate)

Rep. Ryan Mackenzie (PA House of Representatives – Board Member) (via conference call)

Joanne Manganello (PA Senate – Alternate)

William Ruark (Meshoppen Stone, Inc. – Member)

Todd Schmidt (PA Bluestone Association – Alternate)

John Stefanko (DEP – Executive Deputy Secretary for Programs/Acting Deputy Secretary – Active and Abandoned Mine Operations (AAMO) – Alternate; Chairperson)

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

**Other Attendees:**

Bill Allen (DEP – Mining Programs)

John Bennett (Widener Law)

Brian Bradley (DEP - Abandoned Mine Reclamation)

Mark Brickner (DEP – Clean Water)

Abbey Cadden (DEP-Policy Office)

Tom Callaghan (DEP – Mining Programs, Director)

Bruce Carl (DEP- Mining Programs)

Josie Gaskey (PACA)

Mark Hartle (PA Fish and Boat Commission)

Sharon Hill (DEP - Mining Programs)

Darrel K. Lewis (Allegheny Minerals Corporation)

Matt McClure (Specialty Granules, LLC)

William Plassio (DEP – District Mining, Director)

Paul Pocavich (DEP- Mining Programs)

Daniel Schramm (Widener Law)

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

**Call to Order/Introductions**

Covering for Mr. Stefanko, Mr. Bryan called the meeting to order at approximately 10:00 a.m. Board members, DEP personnel and visitors introduced themselves.

**PACA ANTI-TRUST STATEMENT**

As per procedure, Mr. Bryan read the PACA Antitrust Statement to the Board.

**Approval of Minutes**

The Board voted to approve minutes from its November 2, 2016 meeting, without changes.

**Correspondence**

Board Liaison Dr. Snowden reported on receiving correspondence from the Speaker of the House regarding Representative Mackenzie serving on the Board. He also mentioned that the need for the CAC to reappoint its members who currently serve on the Board. Ms. Cunfer noted that the CAC is seeking a replacement for Burt Waite, who retired. Additionally, she raised the matter that CAC members are often simultaneous members of the MRAB and Aggregate Advisory Boards and, that the current meeting scheduling meant a certain burden of travel due to incompatible scheduling. Finally, she recommended that if it were possible to schedule the Boards’ meetings to coincide more closely to the CAC meeting dates, then this would alleviate the inconvenience for the CAC members of the Board.

**Committee Reports:**

Mr. Detwlier reported that the Board’s RLT committee met twice since the last AAB meeting. DEP shared the first draft of a regulatory framework document with the committee for discussion. Several action items resulted from these meetings, and PACA will work with DEP to address these items. The RLT Committee plans to hold additional meetings on the DEP regulatory framework document.

**PRENSENTATIONS**

**Technical Deficiencies Letters**

Sharon Hill presented a summary of a sample of technical deficiencies letters from the DMOs to determine issues related to delays in permit approval, to assess if the deficiencies were serious, significant or insignificant and to look at consistency and appropriateness of comments across DMOs. The conclusions were that of the 958 (non-coal permit) comments, 144 were serious enough to reject the applications. These serious comments occurred in 86% of the applications. The types of deficiencies found included “clarifications”, “missing information” and “errors”. Permit application quality varied across the board, but pre-applications significantly reduced cited deficiencies. BMP identified a few of the common deficiencies that were correctable through the e-permitting process.

**Bureau of Mining Programs Updates**

Mr. Allen provided updates to the Board regarding the non-coal mining program:

* Technical Guidance: The Engineering Manual will be available for public review soon. The comment period for this document is likely to be longer than typically provided, due to the size of the manual.
* Regulatory Agenda: The items below are in the process of finalization, possibly being items for the upcoming EQB meeting in March or April:
* Handling and Use of Explosives Regulations (25 PA Code, Chapters 210 and 211)
  + Non-Coal Fees Regulatory Package (25 PA Code, Chapter 77)
* National Pollutant Discharge Elimination System (NPDES) Permitting: The items mentioned here included the following:
* Draft non-coal permits sent to EPA and their varied statuses (i.e., approvals, comments, no comments).
* The Reporting Rule, as finalized last year, requires the submission of summary to the Federal database. The current system has been unable to meet this requirement, missing several deadlines; however, measures are underway to improve the system to the set standards and, to ensure compliance.
* Clean Water Fund (CWF) Non-Coal Mining Fee Revenues***:*** The CWF revenue for both coal and non-coal operations ranged between $247,800.00 (FY 2012-2013) to a high of $646,950.00 (FY 2015-2016), with $215,240.00 collected for FY 2016-2017 through December.
* Overview of Non-Coal Facilities***:*** Information was provided graphically (per the Board’s request) regarding breakdown of operating non-coal facilities in Pennsylvania, covering the years 2012 through 2016. Details for small operators (both < 2,000 tons/year and <10,000 tons/year), large operators, GP-105 operators, GP-103 operators, and underground operators were included.
* Overview of Non-Coal Applications:Information on the types of non-coal applications received for the years 2012 through 2016 was shared with the Board. The types of non-coal applications included were licenses (new and renewals), large operators, small operators, NPDES, and pre-applications.
* Non-Coal Surface Mining, Conservation and Reclamation Act (NSMCRA) Fund Obligations**:** Information was provided for the following NSMCRA fund obligations:
  + Cash Collateral: $2,193,860.49 (according to E-Facts).
  + PILB Underwritten: $3,207,956.40 (includes monetary releases from other fund mechanisms).
  + Bond Forfeiture (BF) Reclamation: Over $4.3 million (estimate of forfeitures and the costs to reclaim mined areas, in addition to the bond amounts).
  + NSMCRA Fund Balance (as of September 30, 2016):
* General Operations: $6,294,823.87
* Collateral: $2,096,977.30
* Restricted Bond: $844,351.52
* Non-Coal Program Bond Forfeitures: For the years 2010 through 2016, the numbers of small and large non-coal operators that forfeited bonds ranged from a low of eight (all small operators, no large operators – Years 2010 and 2016) to a high of 37 (34 small operators, 3 large operators).
* Miscellaneous: Mr. Allen concluded his presentation with spreadsheets provided at the request of the Board, including information on Historical Authorizations, the Permit Decision Guarantee (PDG) Annual Breakdown, and revenue and expenditure spreadsheets for the Non-Coal SMCRA Fund.

**Non-Coal Bond Rate Guidelines**

Mr. Carl informed the Board that the revised bond rate guidelines were posted in *Pa Bulletin* in December 2016 and went into effect January 1, 2017.  He will strive to keep the board apprised of my annual review of the bond rates on a quarterly basis, and advise the board in advance of any anticipated changes to the bond rate guidelines.

**BAMR Status Report/AML Grant Funding Status**

Mr. Brian Bradley provided a status update on the Bureau of Abandoned Mine Reclamation’s (BAMR) efforts to review and plan for the reclamation of 40 small non-coal bond forfeiture sites.  The Bureau of District Mining Operations (DMO) referred these sites to BAMR as those with high reclamation potential, with minimal cost using BAMR’s in-house reclamation crews and equipment (AD and BD crews).  Any sites that are too time-consuming or, are beyond the equipment capability of the crews will be reclaimed through the competitive bidding process.

During discussions that followed the update, Board members asked the DMOs to make a full list of non-coal forfeitures available so that active operators could consider transferring the forfeited permits. This action would allow the sites reclaimed as active operations - without the expense on the non-coal fund.  Board members also suggested that DEP consider incentivizing or streamlining the transfer of forfeited permits or consider the “as-is” transfer of forfeited permits to minimize the cost of updating a permit during the transfer process.

**NEW BUSINESS**

**Mark Hartle – Pennsylvania Fish and Boat Commission (PFBC)’s Role in Reclassifying Streams**

At the Board’s request, Mr. Hartle gave a presentation outlining the process used to identify and reclassify target streams as valuable natural resources. Mr. Hartle explained the Unassessed Waters Initiative, which uses staff and partners to survey unassessed streams for naturally reproducing populations of trout, with the overarching goal of protecting and covering those waters as wild trout streams. He identified the following: 1) the qualifiers sought when determining stream priority; 2) the methodology of the survey; and 3) the process by which streams would be officially categorized as Wild Trout streams. He concluded by defining the interaction of the PFBC and DEP throughout the process.

The Board expressed interest in working with the PFBC to provide survey services for streams their projects may rest on. The Board affirmed its support of clean streams, but expressed concerns that industries were automatically associated with a degradation of the environment, while active sites have rested on streams that have shown no harmful impacts. The Board raised questions regarding assessments of wild trout streams and, industries’ role in the degradation of trout streams. The Board also decried the cost and time constraint associated with this process and, sought data from the PFBC to conclusively prove that industry played a role in the degradation of trout streams. DEP planned to follow up with PFBC on this matter.

**Mark Brickner – Trout Water Classifications and Re-Designation Qualifications**

Mr. Brickner gave an in-depth presentation about water classifications and re-designations. The Commonwealth is required to protect its surface waters, per the Federal Clean Water Act; the Pennsylvania Clean Streams Law; and Chapter 93.4a. Waters have classifications for both designated and existing uses. Designated uses are those specified in Chapter 93. Existing uses are those the stream body attained in the water body on or after November 28, 1975.

When PFBC classifies waters for specific designated uses, the BCW proceeds to assess them for the needed qualifications. The Bureau of Clean Water assess streams with the designations of Trout Stocking, Cold Water Fishes, High Quality and Exceptional Value streams, and Wetlands.

**Aggregate Advisory Board Annual Report (2015)**

The Board voted to accept its Annual Report for 2015. DEP will post this document on the Board’s website.

**ADJOURNMENT/NEXT MEETING**

Mr. Stefanko adjourned the meeting at approximately 12:50 p.m. The Board will meet again on May 10, 2017 at 10:00 a.m., at the DEP Southcentral Regional Office, 909 Elmerton Avenue, Harrisburg PA 17110.