

**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)  
Elsbeth 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.