

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.