



PA Department of Environmental Protection
Aggregate Advisory Board
2024 Annual Report



Pennsylvania
Department of
Environmental Protection

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CHAIR MESSAGES

“The aggregate industry is the foundation for Pennsylvania’s cities, towns, and infrastructure. This industry is a key component of our economy, providing jobs to maintain and improve the transportation network of our Commonwealth.

The Aggregate Advisory Board brings together industry, legislative members, citizens, and the Department of Environmental Protection to work as partners to address all current and future challenges related to the industrial minerals and aggregate mining industry. The Board is vital in the Department’s vision to be a model environmental agency that leads the way in science, innovation, and best practices to ensure clean air, land, and water for the health and safety of present and future generations.

It is an honor to serve as Chair of the Aggregate Advisory Board and I look forward to working with members of the Board on current and future issues.”

Nathan Houtz

Deputy Secretary for Active and Abandoned Mine Operations (AAMO)
PA Department of Environmental Protection



Pennsylvania
**Department of
Environmental Protection**

“The aggregates businesses in Pennsylvania are the foundation that builds civilization--towns and cities and the connections—roads and bridges—are among the important blocks of communities. Our aggregates are used to build roadways, airports, distribution centers, tunnels, bridges, schools, homes, churches, retail establishments, etc.

I believe all DEP Advisory Boards play an important role in addressing issues that affect industry in a collaborative exchange of understanding, knowledge, ideas and scientifically based, technically accurate solutions in a manner that ultimately results in a better understanding for all involved. The Aggregate Advisory Board specifically brings together industry, citizens, legislative members, and the Department in a transparent setting that prompts a free exchange to upcoming and active challenges faced by the Commonwealth of Pennsylvania and industry. On behalf of all members of this Board and the industry, we look forward to continuing to build this momentum through open discussions relating to noncoal mining at these Board meetings.

It is an honor to continue serving as Vice-Chair of the Aggregate Advisory Board. I commend the Department of Environmental Protection for the work done with this Board.”



**New Enterprise
Stone & Lime Co., Inc.**

Paul Detwiler, III

President and Chief Executive Officer – New Enterprise Stone & Lime Co., Inc.

HISTORY AND PURPOSE OF THE BOARD

On October 25, 2013, Senator Joseph Scarnati and Senators Yaw, Kasunic, Mensch, Vulakovich, White, Alloway, Yudichak, Solobay, and Costa introduced [Senate Bill 1155](#) (Appendix A). In the [Co-Sponsorship Memorandum](#) dated September 10, 2013, Senator Scarnati indicated the creation of this advisory board was to assure that the policy decisions and changes from the Pennsylvania Department of Environmental Protection (DEP) regarding aggregate mining would be made with input from stakeholders, both from the aggregate mining industry and Pennsylvania citizens, to assure that these issues are properly vetted, and the decisions are made in a thorough and comprehensive manner.

The Aggregate Advisory Board (Board) was created by the enactment of Senate Bill 1155 as [Act 137 of 2014](#) (Appendix B), which was signed by Governor Corbett on Sept. 24, 2014, and took effect 60 days later. The Board was created to assist the DEP Secretary to spend funds for the purposes provided by Section 17, “Noncoal Mining Conservation and Reclamation Fund,” of the Commonwealth’s Noncoal Surface Mining Conservation and Reclamation Act ([Act 219 of 1984](#)), and to advise the Secretary on all matters pertaining to surface mining as defined in Section 3, “Definitions,” of the Noncoal Surface Mining Conservation and Reclamation Act (NSMCRA). This includes, but is not limited to, experimental practices, alternate methods of backfilling, obligations for preexisting pollution liability, alteration of reclamation plans, reclamation fees and bonding rates and methods.

At [the first meeting in May 2015](#), the Board determined meetings would be in the months of February, May, August, and November of each calendar year. Act 137 of 2014 requires the Board to prepare an annual report of its activities to be submitted to the Environmental Resources and Energy Committee of the Senate and the Environmental and Natural Resource Protection Committee of the House of Representatives.

MEMBERSHIP

The Board membership is set by Act 137 of 2014. The Board is comprised of the DEP Secretary (chair), three aggregate surface mining operators, four members of the public from DEP’s Citizens Advisory Council, one member from the county conservation districts, one Senate member from the majority party, one Senate member from the minority party, one House member from the majority party, and one House member from the minority party.

Each member is appointed for a two-year term except that half of the initial members serve for three years. The Board meets at least quarterly to carry out its duties. All actions of the Board are by majority vote. The Board’s 2024 members and the alternatives are detailed on pages four and five of this report. A list of the current members as well as other information can be found on [the Board’s webpage](#) on DEP’s website.

OFFICERS

At the initial May 13, 2015, meeting of the Aggregate Advisory Board, then-Secretary John Quigley assigned his chair position to Deputy Secretary for Active and Abandoned Mine Operations (AAMO), John Stefanko. Elected by the Board as Vice-Chair is Paul Detwiler, III, President and Chief Executive Officer, New Enterprise Stone & Lime Co, Inc.

COMMITTEES AND RESPONSIBILITIES

At the May 2015 meeting, two Committees were formed. This included the Regulatory, Legislative and Technical Committee and the Annual Report Committee.

The purpose of the RLT Committee was first discussed at the May 2015 meeting and the following purpose was ultimately approved:

“The Regulatory, Legislative and Technical Committee of the Aggregate Advisory Board is tasked with evaluating, recommending and/or advising the Aggregate Advisory Board regarding existing and proposed legislation, regulations, guidance, policies, white papers and other non-regulatory agenda items, as they relate to the aggregates (stone, sand and gravel, bluestone and other industrial minerals) industry in Pennsylvania.”

The purpose of the Annual Report Committee is to fulfill the requirement of Act 137 of 2014 for an annual report of the Board’s activities. This report is to be submitted to the Environmental Resources and Energy Committee of the Senate and the Environmental Resources and Energy Committee of the House of Representatives.

At the May 2015 Board meeting, the Board voted unanimously to designate six persons to serve as members of the Regulatory, Legislative and Technical Committee: Representative Bryan Barbin; Paul Detwiler, III; Richard Fox; William Ruark; Mark Snyder; and Thaddeus Stevens. Robert Hughes is also designated as a member of the Committee. Committee membership has changed over the years and currently includes Paul Detwiler, III (RLT Committee chair); Thaddeus Stevens; Robert Hughes; Timothy Weston; and Mike Hawbaker.

The noncoal mine permit fees are currently required to be evaluated every three years under DEP’s noncoal mining regulations [at 25 Pa. Code Chapter 77](#). DEP increased these fees on a six-year phased basis effective January 2020. Current fees can be found in [25 Pa. Code § 77.106](#).

2024 MEETINGS

Full Board meetings were held February 21, 2024; May 7, 2024; August 28, 2024; and November 6, 2024. It was proposed to hold the August meeting in conjunction with a tour of the Heidelberg Materials quarry and cement plant in Nazareth but unfortunately the tour was canceled, and the meeting was held in Harrisburg.

Continuing the practice that started during the COVID-19 pandemic, the Department offered a method of virtual access for all 2024 meetings, so that attendees had the option to either join the meetings remotely or in person.

As is typical, in 2024 meetings, the Board received general updates on noncoal mining matters from the Bureau of Mining Programs (BMP) consisting of: regulatory and non-regulatory agendas; National Pollutant Discharge Elimination System (NPDES) permitting program overviews (facilities and applications); ePermitting and electronic Discharge Monitoring Reports (eDMR); permit application processing times; S; NCSMCRA Fund updates (including revenues and expenditures); Clean Water Fund revenues; bonding, and bond forfeitures. The Board also received regular updates from the Bureau of District Mining Operations (BDMO).

MAJOR DISCUSSIONS

In 2024, discussions included:

- Deliverables (varied, per Board requests)
- New Technical Guidance Documents (TGDs)
- District Mining Office personnel changes and workload issues
- Hardrock Abandoned Mine Land Program
- Environmental Justice Policy
- Waste Materials Imported to Mine Sites
- ePermitting and eDMR
- Bond Forfeitures, Mapping and List, Dollars
- Department Revenues and Expenditures
- New Standard Operating Procedures (SOPs)
- Bureau of Mine Safety (BMS) Draft TGD on Submittal of Benching Plans for Noncoal Mining Sites

- Production Report
- Permitting Reform
- Chapter 77 Noncoal Mining Regulations Revisions (i.e., Final Omitted Rulemaking Blast “Site” Clarification for Noncoal Mining Operations)
- Other relevant issues

For more details on these discussions and activities, please refer to the minutes from the Board’s 2024 meetings, which are found in Appendix D. Also, this information can be accessed per the following link: [Previous Years' Meetings | Department of Environmental Protection | Commonwealth of Pennsylvania](#).

AGGREGATE ADVISORY BOARD MEMBERS
(as of July 2024)

Jessica Shirley, Chairperson Acting Secretary PA Department of Environmental Protection 400 Market Street, 16 th Floor P. O. Box 2063 Harrisburg, PA 17105-2063	The Honorable Edwin Day Pashinski PA House of Representatives 214 Irvis Office Building P.O. Box 202121 Harrisburg, PA 17120-2121
The Honorable Carolyn T. Comitta Senate of Pennsylvania Room 457, Main Capitol Building PO Box 203019 Harrisburg, PA 17120	William M. Ruark Meshoppen Stone, Inc. 524 SR 4015 Meshoppen, PA 18630
Paul Detwiler, III, Vice-Chairperson New Enterprise Stone & Lime Co. 3912 Brumbaugh Road P. O. Box 77 New Enterprise, PA 16664	James A. Schmid Citizens Advisory Council Schmid and Co., Inc., Consulting Ecologists 1201 Cedar Grove Road Media, PA 19063
Robert Hughes Eastern PA Coalition for Abandoned Mine Reclamation (EPCAMR) 101 South Main Street Ashley, PA 18706	Thaddeus K. Stevens Citizens Advisory Council Sylvan Glen, Inc. Sylvan Glen Road P.O. Box 61 Gaines, PA 16921
Jonathan Kolbe Vice-President, Allegheny Mineral Corporation 1 Glade Park Drive Kittanning, PA 16201	R. Timothy Weston Citizens Advisory Council K& L Gates LLP 17 North 2 nd Street, 18 th Floor Harrisburg, PA 17101
John St. Clair Citizens Advisory Council 617 Hiner Road Homer City, PA 15748	The Honorable Gene Yaw PA Senate Room: 362 Main Capitol Senate Box 203023 Harrisburg, PA 17120-3023
The Honorable Ryan Mackenzie PA House of Representatives 160A East Wing P.O. Box 2134 Harrisburg, PA 17120-2134	

AGGREGATE ADVISORY BOARD ALTERNATES
(as of July 2024)

Emily Eyster Legislative Director & Executive Director PA Senate Room 457, Main Capitol Building P. O. Box 203019 Harrisburg, PA 17120	Ian Irvin Executive Director Citizens Advisory Council PO Box 8459 13 th Floor, RCSOB Harrisburg, PA 17105-8459
Andrew Gutshall, Regional Mine Permitting Manager Heidelberg Materials 7600 Imperial Way Allentown, PA 18195	Glendon King, Executive Director PA House of Representatives Environmental Resources and Energy Committee PO Box 202073 Harrisburg, PA 17120-2073
D. Michael Hawbaker Glenn O. Hawbaker, Inc. 1952 Waddle Road State College, PA 16803	Ronald Kurpiel, Vice-President/General Manager Hanson Aggregates, Western PA Breakneck Road Connellsville, PA 15425
Michael Hewitt, Program Manager Eastern PA Coalition for Abandoned Mine Reclamation (EPCAMR) 101 South Main Street Ashley, PA 18706	Matthew Osenbach, Executive Director PA Senate Environmental Resources and Energy Committee Room 362 Main Capitol Building P. O. Box 203023 Harrisburg, PA 17120
Nathan Houtz, Deputy Secretary Active and Abandoned Mine Operations PA Department of Environmental Protection 400 Market Street, 16 th Floor P. O. Box 2063 Harrisburg, PA 17105-2063	Peter Vlahos, President PA Aggregates and Concrete Association 3509 North Front Street Harrisburg, PA 17110
William Hughes, Research Analyst PA House of Representatives 214 Irvis Office Building P.O. Box 202121 Harrisburg, PA 17120-2121	

Appendix A – Senate Bill 1155

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1155 Session of
2013

INTRODUCED BY SCARNATI, YAW, KASUNIC, MENSCH, VULAKOVICH, WHITE,
ALLOWAY, YUDICHAK, SOLOBAY AND COSTA, OCTOBER 25, 2013

SENATOR CORMAN, APPROPRIATIONS, RE-REPORTED AS AMENDED, JUNE 9, 2014

AN ACT

Amending the act of May 31, 1945 (P.L.1198, No.418), entitled, as amended, "An Act providing for the conservation and improvement of land affected in connection with surface mining; regulating such mining; providing for the establishment of an Emergency Bond Fund for anthracite deep mine operators; and providing penalties," establishing the Aggregate Advisory Board.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 18 of the act of May 31, 1945 (P.L.1198, No.418), known as the Surface Mining Conservation and Reclamation Act, is amended by adding a subsection to read:

Section 18. Surface Mining Conservation and Reclamation Fund; Remining Environmental Enhancement Fund; Remining Financial Assurance Fund; Department Authority for Awarding of Grants.--* * *

(g.1) There is hereby created an Aggregate Advisory Board to assist the secretary to expend the funds for the purposes provided by section 17 of the act of December 19, 1984 (P.L.1093, No.219), known as the "Noncoal Surface Mining Conservation and Reclamation

Act," and to advise the secretary on all matters pertaining to surface mining, as defined in section 3 of the "Noncoal Surface Mining Conservation and Reclamation Act," which shall include, but not be limited to experimental practices, alternate methods of backfilling, obligations for preexisting pollution liability, alteration of reclamation plans, reclamation fees and bonding rates and methods. The board shall function as follows:

(1) The board shall be comprised of the secretary; three (3) aggregate surface mining operators; four (4) public members from the Citizens Advisory Council, who shall be appointed by the council; one (1) member from the County Conservation Districts, who shall be appointed by the State Conservation Commission; four (4) members of the General Assembly, two (2) from the Senate, one (1) member from the majority party and one (1) member from the minority party, who shall be appointed by the President pro tempore, and two (2) from the House of Representatives, one (1) from the majority party and one (1) from the minority party, who shall be appointed by the Speaker of the House of Representatives.

(2) The secretary shall chair the Aggregate Advisory Board and appoint the members from the aggregate industry.

(3) All members shall be appointed for a term of two (2) years, except that one-half of the initial members shall serve for three (3) years.

(4) All actions of the board shall be by majority vote. The board shall meet upon the call of the secretary, but not less than quarterly, to carry out its duties under this act. The board shall select from among its members ~~a chairperson and such other~~ SUCH officers as it deems appropriate.

(5) The board shall prepare an annual report on its activities and submit the report to the Senate Environmental Resources and Energy Committee and the House Environmental Resources and Energy Committee.

* * *

Section 2. This act shall take effect in 60 days.

Appendix B – Act 137 of 2014

SURFACE MINING CONSERVATION AND RECLAMATION ACT -

AGGREGATE ADVISORY BOARD

Act of Sep. 24, 2014, P.L. 2480, No. 137

Cl. 52

Session of 2014

No. 2014-137

SB 1155

AN ACT

Amending the act of May 31, 1945 (P.L.1198, No.418), entitled, as amended, "An act providing for the conservation and improvement of land affected in connection with surface mining; regulating such mining; providing for the establishment of an Emergency Bond Fund for anthracite deep mine operators; and providing penalties," establishing the Aggregate Advisory Board.

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reclamation fees and bonding rates and methods. The board shall function as follows:

(1) The board shall be comprised of the secretary; three (3) aggregate surface mining operators; four (4) public members from the Citizens Advisory Council, who shall be appointed by the council; one (1) member from the County Conservation Districts, who shall be appointed by the State Conservation Commission; and four (4) members of the General Assembly, two (2) from the Senate, one (1) member from the majority party and one (1) member from the minority party, who shall be appointed by the President pro tempore, and two (2) from the House of Representatives, one (1) member from the majority party and one (1) member from the minority party, who shall be appointed by the Speaker of the House of Representatives.

(2) The secretary shall chair the board and appoint the members from the aggregate industry.

(3) All members shall be appointed for a term of two (2) years, except that one-half of the initial members shall serve for three (3) years.

(4) All actions of the board shall be by majority vote. The board shall meet upon the call of the secretary, but not less than quarterly, to carry out its duties under this act. The board shall select from among its members such officers as it deems appropriate.

(5) The board shall prepare an annual report on its activities and submit the report to the Environmental Resources and Energy Committee of the Senate and the Environmental Resources and Energy Committee of the House of Representatives.

* * *

Section 2. This act shall take effect in 60 days.

APPROVED--The 24th day of September, A.D. 2014.

TOM CORBETT

Appendix C – Aggregate Advisory Board Bylaws

(Adopted May 13, 2015)

ARTICLE I - Authorization

The Aggregate Advisory Board is authorized and organized pursuant to Section 18(g.1) of the Pennsylvania Surface Mining Conservation and Reclamation Act (the act of May 31, 1945 (P.L.1198, No.418), as amended by Act 137 of 2014) (52 P.S. § 1396.18).

ARTICLE II - Purpose

The purpose of the Aggregate Advisory Board is to assist the Secretary of the Department of Environmental Protection to expend the funds for the purposes provided by Section 17 of the Act of December 19, 1984 (P.L.1093, No. 219), known as the “Noncoal Surface Mining Conservation and Reclamation Act,” and to advise the Secretary on all matters pertaining to surface mining, as defined in Section 3 of the “Noncoal Surface Mining Conservation and Reclamation Act,” which shall include, but not be limited to, experimental practices, alternate methods of backfilling, obligations for pre-existing pollution liability, alteration of reclamation plans, reclamation fees and bonding rates and methods.

ARTICLE III - Members

The Board shall be comprised of:

- The Secretary of the Department of Environmental Protection (Secretary),
- Three aggregate surface mining operators, who shall be appointed by the Secretary,
- Four members of the Citizens Advisory Council, who shall be appointed by the Council,
- One member from the County Conservation Districts, who shall be appointed by the State Conservation Commission,
- Four members of the General Assembly:
 - Two from the Senate:
 - One from the majority party and one from the minority party, both of who shall be appointed by the President Pro Tempore,
 - Two members from the House of Representatives:
 - One from the majority party and one from the minority party, both of who shall be appointed by the Speaker of the House of Representatives

Board members may designate an official alternate. The Chair shall be notified, in writing, of such alternate.

The Chair is the Secretary of the Department of Environmental Protection or his departmental designee. All other members shall be appointed for a term of two years, except that one-half of the initial members shall serve for three years. Members may be reappointed.

The Board may recommend to the appointing authority removal of any member not attending, or not represented by a designee, at two consecutive board meetings in a year.

ARTICLE IV - Officers

The officers of the Board shall be the Chair and a Vice Chair. The election of a Vice Chair, by majority vote of the Board members present, shall take place at the first meeting of the Board every two years. The term shall begin immediately upon election. In the event the Vice Chair resigns from said office or ceases to be a member of the Board, an election shall be held to fill that seat for the remainder of the Vice Chair's unexpired term.

It shall be the duty of the Chair to preside at all meetings of the Board, call special meetings, prepare and distribute the meeting agenda in consultation with the Department, and perform other such duties as pertain to the office.

It shall be the duty of the Vice-Chair to perform the duties of the Chair in his/her absence. The Vice Chair shall also assist the Chair in the performance of such duties as may be assigned by the Chair.

ARTICLE V - Committees

The Board may establish committees, as deemed necessary, with each committee assigned specific mission when it is formed.

Committees shall be established by a majority vote of those members attending a regular or special meeting of the Board.

The committee chair shall be selected by its members. The committee chair will be responsible for calling committee meetings, requesting needed assistance from the Department, and reporting to the Board. The committee chair shall receive necessary program and administrative support from the Department.

The Board Chair shall appoint a committee to prepare the Annual Report, as mandated by Section 18(g.1) of the Pennsylvania Surface Mining Conservation and Reclamation Act, to be submitted to the Senate Environmental Resources and Energy Committee and the House Environmental Resources and Energy Committee.

A listing of the committees and their statements of purpose shall be maintained as an Appendix to these bylaws. Changes to the Appendix shall not constitute a change to the bylaws.

ARTICLE VI - Voting

Each member of the Advisory Board shall be entitled to exercise one vote in each matter placed before the Advisory Board for which a vote is called. Decisions of the Advisory Board shall be by vote of the majority. A majority of the Board members constitutes a quorum and no voting shall be done without a quorum. Votes must be made by the member or their designated official alternate; voting will not be done in absentia, by proxy or by stand-in representatives.

In the event that the position of the Advisory Board must be determined, and a meeting cannot reasonably be rescheduled, members may participate in the meeting and vote by telephone conference call or other electronic means.

ARTICLE VII - DEP Administration

Representatives from the Office of Active and Abandoned Mine Operations shall provide program liaison and administrative support to the Aggregate Advisory Board. Program liaison support shall include framing of issues for the Advisory Board, providing necessary information for Advisory Board discussions, and assisting with the development of agendas, projects and meeting schedules.

Administrative support shall be performed by an employee designated by the Department. It shall be his/her duty to function as the recording and corresponding assistant, as assigned by the Department. Included among these duties shall be:

- To give public notice of the meetings and agendas for the Board and the committees two weeks in advance on the Department's website, and by email to Board members.
- To record full Board minutes and keep a permanent file of the minutes of meetings of the Board and committees. Minutes of the meetings of the Board and of Committees shall be distributed to the full membership of the Board. Minutes should be reviewed by the Board Chair and/or committee chair prior to distribution.
- To conduct both outgoing and incoming correspondence and to maintain a permanent file of such correspondence.
- To review and approve travel and subsistence expenses.
- To perform other such duties as may be requested by the Board.

ARTICLE VIII - Meetings

Meetings of the Board shall be open to the public and shall be held at least quarterly or at the call of the Chair.

A majority of the Board members shall constitute a quorum. A majority of the members present at a meeting of the Board may act for the full Board. The Chair shall have the same rights, privileges and obligations as all Board members.

Members who miss two or more consecutive meetings of the Board may be recommended by the Board to the Secretary for removal from the Board.

ARTICLE IX - Amendments of Bylaws

The Bylaws may be amended at any meeting of the Advisory Board by two-thirds majority vote of the members of the Board present at the meeting, provided there is quorum, and that written notice of such change has been sent to each member at least one month prior to the meeting.

ARTICLE X - Board Representation

The Board shall act as a body in all matters before it and only the Chair or his or her designee, or the Board's designee, shall speak on behalf of the Board.

ARTICLE XI - Parliamentary Authority

On items not covered by these Bylaws, Robert's Rules of Order shall be the final authority.

Appendix D – Board Meeting Minutes from 2024

AGGREGATE ADVISORY BOARD (BOARD)

Wednesday, February 21, 2024

Hybrid Meeting (via Microsoft Teams)

VOTING MEMBERS OR ALTERNATES PRESENT:

Rep. Ryan MacKenzie (Member – PA House)

Paul Detwiler, III – (Member – New Enterprise Stone & Lime Co., Inc.) Ronald

Kurpiel (Alternate – Hanson Aggregates)

Ian Irvin – (Alternate – Citizens Advisory Council (CAC))

Matthew Osenbach (Alternate – PA Senate)

Emily Eyster (Alternate – PA Senate)

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

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)

Christopher Stewart (DEP – BMP)

Emily Fisher (DEP – BMP)

Rachel Colyer (DEP – BMP)

Randy Shustack (DEP – Bureau of District Mining Operations (BDMO))

Amy Berrios (DEP – Active and Abandoned Mine Operations (AAMO))

Maximilian Schultz (DEP – Policy Office)

Richard Marcil (DEP – Regulatory Council)

Trent MacHamer (Guest – PA Senate)

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 November 1, 2023 meeting minutes without changes.

CORRESPONDENCE

Board Member reappointment letters are currently underway, as reported by Dan Snowden, Board liaison. Additionally, Dr. Snowden reported that Tom Bryan (Bryan Materials Group) will be stepping down, and his replacement will be Jonathan Kolbe (Allegheny Mineral Corporation/State Industries); Andrew Gutshall (Heidelberg Materials) will serve as Jonathan Kolbe's alternate.

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 its last meeting on August 4, 2022.

DELIVERABLES

Nate Houtz, Director for the Bureau of Mining Programs (BMP) indicated there were no deliverables to report.

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 the summaries of the 2023 calendar year. A table was presented showing applications in-process; the format used for this table provides a snapshot of one day and, gives a better idea of the distribution in more detail. Additionally, a summary table that showed inspectable units (up to January 11, 2024) was shared.
- **Regulatory Agenda**
Ms. Hill reported that there are no pending or proposed regulations for the noncoal program.
- **Non-Regulatory Agenda**
Ms. Hill reported that there are no updates to the Non-regulatory agenda, and no pending Technical Guidance Documents (TGDs) at this time.
- **ePermitting and electronic Discharge Monitoring Reports (eDMR)**
Ms. Hill shared information about the new Public Upload with Payment process available to the public, which allows upload of nearly anything related to licensing. Payments can be made with Telecheck or Credit Card. The system is working well, as its use avoids mail delays and extra paperwork; the system also allows the District Mining Offices to process the information in only a couple days.
- Ms. Hill also noted that the due date for submission of Annual Employment and Production Reports for the 2023 calendar year was January 21, 2024. ePermitting submittal is available for this, along with the Public Upload option.

- **Licensing updates**

Ms. Hill reported that the new License Chief is Christopher Stewart. The new webpage and email resource account use is encouraged for use by individuals who have questions or wish to submit their certificates of insurance or additional documentation to via email.

Ms. Hill shared the news that the Non-Discharge Alternatives Standard Operating Procedure (SOP), recently finalized last November, has been presented to the United States Environmental Protection Agency (US EPA). She then briefly explained the Non-Discharge Alternatives, and how they won't cause a point source discharge. During this time, a question was raised from the Board as to whether information about the SOP finalization was shared at the November Board meeting, since that was not reflected in the meeting minutes. Ms. Hill indicated it had not been discussed at that meeting, and that it was an internal document that BMP has worked on for nearly four years, to iron out the inconsistencies and issues. Ms. Hill also wanted to remind everyone that the BMP Updates is now a tile on the sidebar of the main BMP web page.

- **Bonding and Bond Forfeitures**

Mr. Greenfield reported that there have been no noncoal bond forfeitures in the year 2024 yet. He then shared: 1) the numbers for the current cash collateral bonds being held; 2) the bonds underlying the Payment In-Lieu of Bond (PILB) program; and 3) bonds collected for noncoal bond forfeiture reclamation. Mr. Greenfield also shared information on the general operations fund, collateral bonds held by the department, as well as the amount of bonds collected to be used for noncoal reclamation. He then reviewed the amount deposited into the Clean Water Fund so far in 2024, including both coal and noncoal, NPDES, Chapter 105 fees, and wetland encroachment fees.

Mr. Greenfield then shared the revenues collected and expenditures over the last 3 months with the Board, reporting that nothing unusual is occurring. During this time, a question was raised by the Board as to why the expenses appear lower in the last couple months than they have historically. Mr. Greenfield explained that personnel costs had been charged against the General Fund as part of an effort to stabilize the noncoal fund. Another question was raised as to what, if any, reaction there may have been with the fee increase in the new year. Mr. Greenfield indicated that Ms. Hill had notified noncoal mine operators of the increase ahead of time, and that BMP had been educating the noncoal industry about why the fees are charged and, what they are used for, so there did not seem to have been any pushback about the issue.

UPDATE FROM BUREAU DISTRICT MINING OPERATIONS (BDMO)

Randy Shustack, new Director for BDMO, began by relating information on the staffing updates. Tiffany Folk will be the new Permits Chief at the Pottsville District Mining Office, replacing Mike Kutney. The Moshannon and Knox District Mining Offices still have vacancies in the Permits Chief positions, but interviews have been completed, and names have been sent down; they are only waiting for approval at this point. Other positions still need to be filled in other District Mining Offices and, efforts regarding this matter are ongoing.

In other developments, the Pottsville and Moshannon District Mining Offices have been working with personnel from the New York Department of Environmental Conservation (NY DEC) to set up site visits for our DEP personnel at small and large noncoal operations in New York, as well as hold open dialogues to understand the similarities and differences at these operations in both States. They feel it is important, since many noncoal mining companies have mine operations in both Pennsylvania and New York.

NEW BUSINESS

Nate Houtz was asked by the Board if there were any updates on the Environmental Justice (EJ) Policy, but he stated he was unaware of anything at this time. Mr. Houtz indicated that he would look into the matter. Mr. Shustack was then asked if the DMOs had noticed anything affecting the permitting processes due to implementation of the EJ Policy, but he indicated that he had not.

Peter Vlahos made an offer regarding the meeting on August 28, 2024. Here, the meeting could include a field trip tour of the Heidelberg Materials quarry and cement plant in Nazareth (Lehigh Valley). The Board would tour the facility in the afternoon, after the meeting is held in the morning.

ADJOURNMENT/NEXT MEETING

A motion to adjourn was unanimously accepted by the Board. The meeting concluded at approximately 10:25 a.m. The next scheduled meeting is to be held on May 1, 2024, at 10:00 a.m., in Conference Room 105 of the Rachel Carson State Office Building in Harrisburg.

AGGREGATE ADVISORY BOARD (BOARD)

Tuesday, May 7, 2024

Hybrid Meeting (via Microsoft Teams)

VOTING MEMBERS OR ALTERNATES PRESENT:

William Ruark (Member – Meshoppen Stone, Inc.)

Paul Detwiler, III – (Member – New Enterprise Stone & Lime Co., Inc.)

James Schmid (Member – Schmid and Co., Inc (Consulting Ecologists) / Citizens Advisory Council (CAC))

R. Timothy Weston (Member - K & L Gates, LLP / CAC)

Ian Irvin (Alternate – (CAC))

Ronald Kurpiel (Alternate - Hanson Aggregates (Western PA))

Glendon King (Alternate - PA House of Representatives)

Matthew Osenbach (Alternate – PA Senate)

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

OTHER ATTENDEES:

John Stefanko (DEP - Active and Abandoned Mine Operations (AAMO))

Patrick Webb (DEP - Bureau of Abandoned Mine Reclamation (BDMO))

Richard Wagner (DEP - Bureau of Mine Safety (BMS))

Kerry Speelman (DEP - BMS)

William Hudak (DEP - BMS)

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)

Christopher Stewart (DEP – BMP)

Emily Fisher (DEP – BMP)

Rachel Colyer (DEP – BMP)

Sage Saum (DEP -- BMP)

Randy Shustack (DEP – Bureau of District Mining Operations (BDMO))

Amy Berrios (DEP - AAMO)

Lena Smith (DEP – Policy Office)

Richard Marcil (DEP – Regulatory Council)

Jeffery Iavicoli (Guest – PA Senate)

Jamie Stilley (Guest - Amerikohl Aggregates, Inc.)

Jessica Deyoe (Guest - Babst-Calland)

Terry Schmidt (Guest - Earthres)

Joseph Lechnar (Guest - Earthtech, Inc.)

Brian Verwelst (Guest - Earthtech, Inc.)

Michael Clark (Guest - New Enterprise Stone & Lime Co., Inc.) Kevin

Claycomb (Guest - New Enterprise Stone & Lime Co., Inc.) Nate

Eachus (Guest – Affiliation Unknown)

Elam Smith (Guest – Affiliation Unknown)

CALL TO ORDER

The meeting was called to order at approximately 10:00 a.m. by Board Chairperson John Stefanko.

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, alternates and guests in the room who were present for the meeting introduced themselves, and those joining online then introduced themselves.

APPROVAL OF MINUTES

The Board approved the meeting minutes from the February 21, 2024, meeting minutes without changes.

CORRESPONDENCE

Daniel E. Snowden reported that the Citizens' Advisory Council (CAC) recently appointed its members to the Aggregate Advisory Board; Dr. Snowden noted that James Schmid and John St. Clair, who are also on the Mining and Reclamation Advisory Board (MRAB) are now CAC appointees to the Aggregate Advisory Board and, that Tim Weston and Thaddeus Stevens have been reappointed to this Board. Dr. Snowden also noted that the package for the reappointed members and 1 new appointee is being put together and sent up to the Acting Secretary's Office for approval shortly.

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 meeting on August 4, 2022, so there was nothing to report.

DELIVERABLES

Nate Houtz, Director for the Bureau of Mining Programs (BMP) indicated there were no deliverables to report.

BUREAU OF MINING PROGRAMS (BMP) UPDATES

The Board was provided with updates from Sharon Hill and Gregory Greenfield 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 the summary of the 1st Quarter of 2024.

The table presented shows applications in and out, with detailed graphic showing all applications per office, with Pottsville leading.

- **Regulatory Agenda**

Ms. Hill reported that there was no update for the noncoal program for this meeting.

- **Non-Regulatory Agenda**

Ms. Hill reported that there was nothing pending for both the Non-regulatory agenda and, Technical Guidance Documents (TGD's) at this time.

- **ePermitting and electronic Discharge Monitoring Reports (eDMR)**

Ms. Hill shared that there are currently no updates on the ePermitting but invited John Stefanko to comment on this. Mr. Stefanko reported that DEP, as a whole, is going through an information technology (IT) modernization, and this is a long-term process. The first step is selecting the platform by which all IT systems within the agency will operate under, and this announcement is imminent. The next step will be to test it out, the agency having six or seven hundred programs to mesh with the system, testing each program in turn. The good news is that there is money in the budget for all of this; but this means ePermitting is further down the road.

Ms. Hill did want to add that the public upload is working; anything needing to be submitted to the department for mining programs can be done digitally, and pay online, and this is working well. The DMOs are used to using this, and if anyone needs help in submitting any documentation or application information, to let us know at BMP and we can provide instructions. There was a question about the time frame for this IT testing, and Mr. Stefanko indicated this will likely be about 18 months to two years, tentatively.

- There was also a question about Standard Operating Procedures (SOPs) or TGDs being worked on at this point. Ms. Hill mentioned the Water Supply TGD, which will apply to noncoal as well; she indicated that the work here involves adding clarifications to items/activities that operators are already used to doing, and there would not be anything new. However, there is no draft yet, since three TGDs are being put together as two; Ms. Hill is hoping a draft will be ready by the end of the year.

- **Licensing updates**

Ms. Hill shared that the new updated Transfer Application (allowed by the Chapter 77 revisions from last year) was currently being completed in Document Processing and, it will be more streamlined and clearer in terms of how to submit this particular application. Ms. Hill also reported that a new Permit Revision Application package was being completed and should be coming out in the next couple weeks. Lastly, Ms. Hill wanted to remind everyone that the BMP Updates is the tile on the sidebar of the main BMP page.

- **Bonding and Bond Forfeitures**

Mr. Greenfield reported that there have been two small noncoal bond forfeitures and one bluestone forfeiture so far in the year 2024. He then shared the numbers for the current cash collateral bonds being held, the bonds underlying the PIL program, and bonds collected for noncoal bond forfeiture reclamation.

Mr. Greenfield shared information on the general operations fund, collateral bonds held by the Department, as well as the amount of bonds collected to be used for forfeiture reclamation. A question was raised about forfeited bonds and the actual costs of reclamation; Mr. Greenfield indicated that the plan is to eventually get rid of permits with no or little bonds, and if a permit will be forfeited, it will be at full cost, to reflect the true cost of the reclamation.

Mr. Greenfield then reviewed the amount generated into the Clean Water Fund so far in 2024, including both coal and noncoal, NPDES, Chapter 105 fees, and wetland encroachment fees. Revenues collected and expenditures over the quarter were briefly reviewed by Mr. Greenfield. He reminded the Board that personnel costs had been charged against the General Fund, in an effort to stabilize the noncoal fund. This is the plan to request this be done again in the next fiscal year. Otherwise, nothing else of note to discuss.

Mr. Greenfield also noted that there were no penalties collected for January due to a miscoding, so the figures for March covered both January and March.

There was a question about the fee increases, and Mr. Greenfield indicated that we are doing a good job keeping our expenditures down, but realistically difficult to fund a fund on permit fees. Additionally, Mr. Stefanko reminded the Board about the recent American Federation of State County and Municipal Employees (AFSCME) agreement, which will raise the personnel costs over the next several years, must be accounted for as well.

- **Additional Matters**

Mr. Stefanko wanted to add that the federal Noncoal Abandoned Mine Land (AML) program, which has not been adequately funded since being established, is receiving support for increasing the funding to that program with federal dollars. He believes Pennsylvania could be eligible to submit a grant request for this program, in order to better address and supplement our reclamation obligations.

A question was raised to clarify whether this was the same information shared in previous meetings, about the Hardrock AML funding, and whether this was federal funding for the 2025 fiscal year, and Mr. Stefanko indicated that it was, and that different people refer to this by different names.

PRESENTATION -- DRAFT TGD: GUIDELINES FOR SUBMITTAL OF BENCHING PLANS

William Hudak presented to the Board information about a Draft TGD. Mr. Hudak explained that benching is the removal of minerals from the floor or ceiling of existing corridors or passages. Pillar height is increased, but the width remains the same; this scenario has increased instability in the recent past in several mines.

Benching Plans have been requested for approximately the last 2 years due to several catastrophic failures occurring in and around several benched areas. These pose a safety hazard to the mine workers and the persons aboveground as well. Operators of underground industrial mining with appropriate stone thickness, to permit additional material be removed through benching, have been submitting these plans, which typically include a risk assessment for the pillar failure, analyzation of the roof beam, and current geological issues which may be occurring in that mine. A model is then created through S pillar, or potentially other means, to be analyzed and checked to make sure they are working within the safety bounds for that particular formation.

A question was raised about the timeline to finalize the TGD, to which Mr. Hudak responded that he will present it again in the fall; also Mr. Stefanko indicated that it should be under review by the Board's Regulatory, Legislative and Technical (RLT) Committee - with the members being identified by Nathan Houtz, Laura Mensch and Daniel Snowden - so the document can be shared and reviewed by the appropriate people.

Another question was asked about the timeline of reviewing the benching plans which are submitted. Mr. Hudak indicated that the timeframe was between one and two weeks, typically, depending on how well the plans were submitted, since the plans requires that the inspector actually goes into the area to identify any hazards with the operator; the fully reviewed plan is the product submitted with the S pillar or other equations. No removal of material can occur without the approval of the plans.

A question was raised regarding how well-received the requirement for these plans were, and Mr. Hudak indicated that there has been most always cooperation so far.

There was a question raised about what certifications, professional skill-level or experience would be expected for the people who are preparing the plans; it was indicated that at least a Mine Foreman, but that additional PG or PE is not being required at this time, unless there would be extenuating circumstances.

It was noted that the TGD is the first step, the nuts and bolts so to speak, before any determination of a regulatory change that might potentially be needed in the future.

WASTE MATERIALS IMPORTED TO MINE SITES

Sharon Hill provided a presentation to review non-mining activity occurring on a mine site; a subset of this activity involves importing material to the site typically used for reclamation purposes. Most of this is already known by the operators, but questions have arisen about the use of waste general permits used on mine sites.

Ms. Hill reviewed the reasons for importing materials to mine sites, as well as the types of materials imported to the same, and explained that the imported materials must be authorized by the mining permit and reflected in the operation and reclamation plan and maps. If importation is not already considered under regular operations, the permit team may need a minor or major revision; separate authorizations; and associated permit conditions attached – all regarding monitoring and reporting of that material.

DMOs receive requests for importing all kinds of materials onto mine sites, and if they're not suitable for beneficial use, they are rejected.

Ms. Hill noted that there are guidance documents already existing for several types of importing activity and, that importation of materials, while rather common on coal sites, does occur on noncoal sites as well: the same principles apply to both. Mining permits are not intended for waste disposal, and the permitted party is not authorized to accept "fill" without approval; the Reclamation Fill TGD provides guidance for incidental and reclamation volumes imported to the site. The Waste General Permit (GP) Materials TGD outlines that the waste permit must be obtained first and, does not automatically allow the material to be brought into any mine sites, but rather site-specific approval is needed to authorize it, making sure that the material is usable and appropriate for the site. Additional monitoring might be required as well. Convenience disposal is not allowed.

Ms. Hill stated that generally, it is advantageous to not have any non-mining activity on the mining permit, but in many cases the activity is occurring because it's integral to the process (as recycled asphalt or concrete); it is regularly approved without an issue.

Several examples were discussed, including monitoring parameters involving runoff encountering imported materials and, isolating materials depending on type of activity and materials. These situations may incur possible additional requirements in the permit, including chemical constituents testing and establishing and monitoring the materials' physical characteristics.

Ms. Hill noted the possibility of revising the erosion and sedimentation (E & S) plans, specifying the stockpiles in used areas, or revised air pollution and noise control plans if stockpiles and similar operations are not already covered in existing approved plans.

If material will need to be removed for reclamation of the mine site, this will need to be covered by additional bond in some cases, usually only applied over a certain volume. Inspection and permitting staff are aware of the requirements.

After the presentation, there was a short discussion of a variety of fill materials, from food processing waste, dredged material from rivers out-of-state, and drill cutting materials – all of which are generally not allowable for use in mine-fill operations.

UPDATE FROM BUREAU OF DISTRICT MINING OPERATIONS (BDMO)

Randy Shustack, BDMO Director, indicated he only had two updates for the Board.

The first was a staffing update: Moshannon DMO has a new Permits Chief by the name of Dan Husted. The search for Knox Permits Chief is currently on, job is posted and awaiting to interview candidates.

The other update was about the questions submitted pertaining to bag house fines at the end of April, by PACA. These have been shared with Jason Dunham, from the Waste Program at Central Office, who is reviewing them. Once he has his answers, Mr. Shustack will be meeting with PACA, along with the Mining and Waste Programs, to discuss each question in detail.

NEW BUSINESS

The Annual Report's status was requested, and Mr. Detwiler indicated that everyone has had a chance to review it, so it is ready to submit and publish.

The status of the interim final Environmental Justice (EJ) policy was requested, and it was noted that the comments have been taken into consideration, and that the comment and response document was in the works.

A question was raised about updates on the Annual Production Report. Mr. Houtz indicated that Jim Charowsky was in charge of this project and, that he was finishing things up.

A request was made to have an initiative to harmonize mapping icons, symbols and colors; Mr. Stefanko indicated that there had been some movement on this; he stated that he was not sure where this effort stood, but that more news on it should be forthcoming.

ADJOURNMENT/NEXT MEETING

A motion to adjourn was unanimously accepted by the Board. The meeting concluded at approximately 11:00 a.m. The next scheduled meeting is to be held on August 28, 2024, at 10:00 a.m., in Conference Room 105 of the Rachel Carson State Office Building in Harrisburg.

AGGREGATE ADVISORY BOARD (BOARD)

Wednesday, August 28, 2024

Hybrid Meeting (via Microsoft Teams)

VOTING MEMBERS OR ALTERNATES PRESENT:

William Ruark (Member – Meshoppen Stone, Inc.)
Paul Detwiler, III – (Member – New Enterprise Stone & Lime Co., Inc. (NES&L)) Jonathan Kolbe (Member -- Allegheny Mineral Corporation (AMC))
R. Timothy Weston (Member -- K & L Gates, LLP / Citizens Advisory Council (CAC))
Thaddeus Stevens (Member -- Sylvan Glen, Inc (SGI)/CAC)
Ryan MacKenzie (Member -- PA House of Representatives)
Ian Irvin (Alternate – CAC)
Peter Vlahos (Alternate – PA Aggregates and Concrete Association (PACA))
Andrew Gutshall (Alternate -- Heidelberg Materials, LLC)
Glendon King (Alternate -- PA House of Representatives)
Matthew Osenbach (Alternate – PA Senate)

OTHER ATTENDEES:

Nathan Houtz (DEP -- Active and Abandoned Mine Operations (AAMO))
Sharon Hill (DEP – Bureau of Mining Programs (BMP))
Greg Greenfield (DEP – BMP)
Laura Mensch (DEP – BMP)
Gregory Shuler (DEP -- BMP)
Daniel E. Snowden, D.Ed. (DEP – BMP/Board Liaison)
Christopher Catalano (DEP – BMP)
Emily Fisher (DEP – BMP)
Sage Saum (DEP -- BMP)
Randy Shustack (DEP -- Bureau of District Mining Operations (BDMO))
Richard Marcil (DEP – Regulatory Council)
High Garst (DEP -- Policy Office)
Robert Stormer (Guest – The EADS Group, Inc.)
Trent Machamer (Guest -- PA Senate (Research))
Jeffrey Iavicoli (Guest -- PA Senate)
Megan Dennis (Guest -- PA Aggregates and Concrete Association (PACA))
Michael Clark (Guest -- NES&L.)
Laura Berra (Guest -- Skelly and Loy, Inc)
Matthew McClelland (Bernstein-Burkley, Attorneys-at-Law)
Benjamin Welch (Guest -- Glenn O. Hawbaker, Inc.)
Brian Welsh (Rosebud Mining Company, Inc.)
Arthur Fisher, Jr. (Guest -- Grenergy Renewables)
Nathan Eachus (Guest -- Unknown)

CALL TO ORDER

The meeting was called to order at approximately 10:00 a.m. by Nathan Houtz, Chair.

ROLL CALL/INTRODUCTIONS

Board members, alternates and guests in the room who were present for the meeting introduced themselves, and those joining online then introduced themselves, facilitated by Dr. Snowden.

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.

APPROVAL OF MINUTES

The Board approved the meeting minutes from the May 7, 2024 without changes.

CORRESPONDENCE

Dr. Snowden reported that as of July 2, both Paul Detweiler III and Bill Rourke have been reappointed to the board, and Jonathan Kolbe has been appointed as a new member of the Board.

PUBLIC COMMENTS

The floor was opened for public comments by the Chair; Dr. Snowden indicated that none had been submitted to the board.

COMMITTEE REPORTS

The Board's Regulatory, Legislative and Technical (RLT) Committee reported that they had received and reviewed comments about the Technical Guidance Document (TGD) for Benching. The comments were circulated, and the Committee members will be reviewing them before the next RLT Committee meeting in October.

DELIVERABLES

Sharon Hill indicated that there were no deliverables for the Board at this time.

BUREAU OF MINING PROGRAMS (BMP) UPDATES

The Board was provided with updates from Sharon Hill and Laura Mensch 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 shown in the first table of the BMP Update encompasses the summary of all noncoal applications received and disposed from January 1 to August 1 of this year, for each of the DMOs that accept noncoal mining permits and applications. Below that is a table showing in-process applications, broken down by type, as of August 1. Totals are shown at the bottom and in the column on the right-hand side.

There was a question from the Board asking for clarification about Key Performance Indicators (KPIs) in the new administration, in terms of review and approval times for the applications. Specifically, the inquiry involved whether there is there a specific time frame the applications are to be completed, due to the Payback initiative, which drives KPIs. Ms. Hill responded that most noncoal applications, with the exception of licenses, are not subject to Payback, due to statutory limitations which prohibit returning application fees. There are, however, program time limits as to how many days the applications are in house before a decision is made to reject the application, or issue the permit, or ask for additional corrections required for an application; say, 30 to 60 days to review the application and take some sort of action on it, which are already built into the eFACTS System. The reviewers, and then their supervisors, the District Mining Managers, keep a check on that to ensure the deadlines for review are met.

Another question was raised, asking if the number of denials are tracked versus approvals. Ms. Hill responded that denials are rare, though that metric is not one which is tracked. DEP shows as part of disposed records, "issued", "denied", "withdrawn". She noted that most of the time, if they are not issued, such as if a problem arises and we cannot move toward issuance, the applicant will withdraw the permit or the application. Also, if the question can be framed to the Board, such as how many denials this year, or for certain types of permits, the answer can be a future deliverable.

Ms. Hill was also asked if, when appeals occur (for applications, not appeals for compliance actions), whether they be by a third-party or the permittee, if those numbers are tracked, and, if so, how many might be currently pending. The interest indicated was whether they are complicating the workload for the Department. Ms. Hill indicated that was a complicated question because the database does not reflect that; she would need to go to each office to ask what is currently under appeal. Gregory Greenfield was able to check during the questioning and offered the information regarding current appeals noting that currently, there are two permits under appeal with the Environmental Hearing Board: Gibraltar and Collier Stone.

Mr. Stevens raised a question about the Knox DMO versus all of the other offices, and why they show more permits out than applications in, and whether there would be a reason for that. Ms. Hill indicated that the numbers may fluctuate depending on the time of year, but that nothing has stood out as a trend, though the DMOs individually may be able to note trends. It was also noted that previous versions of the update from meetings could be reviewed by the Board for the information, if needed.

- **Regulatory Agenda**

Ms. Hill noted that there will be a discussion later in the meeting about the final omitted blast clarification regulation.

- **Non-Regulatory Agenda**

Ms. Hill reported that there is nothing pending for the non-regulatory agenda, and no pending Technical Guidance Documents (TGD's) at this time.

- **ePermitting**

Ms. Hill shared that there are currently no updates on the ePermitting. She noted that the Public Upload Payment (PUP) process is working well. It is checked daily to ensure it is running smoothly, and there have not been major issues recently. It was indicated that if any issue occurs, she relates that back to ePermitting support. Staff is encouraging people to submit their applications that way, since it is easier to handle than paper.

Regarding forms and process updates, Ms. Hill wanted to remind everyone about the new revision application, which is available for the first time this quarter. It makes for an easier way to submit any type of major or minor revision.

A question was raised by the Board about the U.S. Environmental Protection Agency's (EPA) website tool – Environmental Compliance History Online (ECHO). ECHO can sometimes erroneously show National Pollutant Discharge Elimination System (NPDES) permits to be in Significant Non-Compliance (SNC) status. A member company raised concern about the sometimes-incorrect information. Ms. Hill invited Ms. Mensch to speak to

this, after indicating that there are quarterly meetings held with the EPA, and these issues have been raised with them. Ms. Mensch indicated that the EPA ranks the violations detected that flow into their Integrated Compliance Information System (ICIS) database. While true violations do get flagged, ICIS may also erroneously flag data associated with permits which can cause these permits to appear to the public as violations on ECHO. BMP has been working to address this issue. For example, BMP found that many NPDES were inaccurately being flagged with violations due to a miscommunication between databases regarding the timing of report submissions. After working extensively with IT, BMP was able to correct how data is sent to ICIS for a large number of these permits, thereby removing the false violation indicators. Finding and correcting these errors is a complicated and labor-intensive process involving BMP, IT and EPA staff. Correcting the issue will be a long-term process.

The Board then asked for clarification as to whether this was a tech or human issue, and how it can be fixed. Ms. Mensch related that PA, along with numerous other states nationwide, is experiencing issues with a process known as Electronic Data Transfer (EDT). EDT is the process by which data is sent from state databases to EPA's ICIS database. When there are miscommunications between the databases, false violations can appear. About ten months ago, EPA formed a work group to address the issues states are facing with the EDT process. Ms. Mensch noted that, while she can go into the system and manually force a correction on erroneous information, unless the problem is solved long-term that correction will be subsequently over-written the next time data is sent to ICIS.

- **Bonding and Bond Forfeitures**

Ms. Mensch delivered the update to the Board for fiscal and bonding. She reported that so far in 2024 there have been two small noncoal bond forfeitures, both in Susquehanna County, and one bluestone forfeiture (which had been reported in the last meeting). Ms. Mensch then shared the information on the current noncoal SMCRA fund obligations, the numbers for the current cash collateral bonds being held, the bonds underlying the Payment-in-Lieu-of-Bond (PILB) program, and bonds collected for noncoal bond forfeiture reclamation.

She then moved on to share the information on the general operations fund, collateral bonds held by the Department, noting the numbers may appear different, but that is only due to the timing of the report. The last number reviewed was the amount of bonds collected to be used for forfeiture reclamation. Ms. Mensch then reviewed the amount generated into the Clean Water Fund so far in 2024, including both coal and noncoal, NPDES, Chapter 105 fees, wetland encroachment fees; she noted that the number appears on the low end, but that is due to the fact that contributions only just started for the new fiscal year, July 1.

The Board asked that the table additionally show an accounting for fees collected, as part of the packet, excluding Clean Water (since that includes both coal and noncoal, and it would affect the number they wish to see). Mr. Greenfield indicated this would be examined to see if that information could be provided for the Board.

Ms. Mensch then reviewed the revenue totals by fee categories from July 1 and noted the 5% deduction which comes out of civil penalties to go to the Environmental Education Fund. The expenditures were shown, and she indicated that personnel costs since July 1 are continuing to be charged to the General Fund, rather than the SMCRA Fund, to allow that fund to increase again from it having been depleted. This is the same as last fiscal year. With the personnel expenditures coming largely out of the General Fund, the revenue is relatively steady; attempting to support the program through fees began to prove to be untenable.

The Board asked about the budget being approved for fiscal year 2024-2025, and whether there were other hires for the noncoal program or for any DMOs; the answer was no, other programs were part of the request for additional staff there.

PRESENTATION -- Final Omitted Rulemaking: Blast "Site" Clarification for Noncoal Mining Operations

Mr. Catalano joined Ms. Hill, who presented to the Board information about the use of the final omitted rulemaking process to make a one-word correction to the Chapter 77 section, changing the language to blast "site" versus it previously reading blast "area". The reason the correction was to ensure the language is consistent with the definitions of both terms in the department's regulation on the storage, handling and use of explosives, Chapter 211. This is to alleviate any confusion regarding set back limits for worker and public safety during the preparation of the holes containing explosives and clarify the intent of the regulation.

Ms. Hill pointed out that this final omitted process does not receive public comment because it is a minor and straightforward change. The package goes straight to the Environmental Quality Board (EQB), but the Board may provide any comments and considerations at this time.

Mr. Catalano briefed the Board on the notification which he sent to the industry, via email, to apprise them of this change. He noted that he did receive positive feedback from a few in the industry, as well as feedback from inspectors who have had questions about it. To illustrate to the Board the idea of blast site versus the blast area, Mr. Catalano had a visual of a quarry, showing the smaller blast site, where the explosives are being loaded, which is surrounded by the larger blast area.

The Board had no additional comments on the rulemaking.

UPDATE FROM BUREAU DISTRICT MINING OPERATIONS (BDMO)

Randy Shustack, BDMO Director, indicated that, on August 7, he joined Pottsville DMO staff on a site visit to H&K's Pottsville Materials Asphalt Plant, to witness how baghouse fines are created in asphalt production. He stated the visit was worthwhile to help their interaction with Bureau of Waste Management to answer some of the questions raised on storage and use of baghouse fines on mine sites.

Mr. Shustack also noted that the Pottsville DMO is almost back to full complement for noncoal inspections, and the vacancies that remain are currently in coal districts; until the full complement can be reached, some of the offices, especially out west, are helping each other out.

The Board also requested that Mr. Shustack share numbers of permits and whether they are increasing, decreasing or flat through the DMOs, and he indicated he would reach out to gather that information to share with the Board.

NEW BUSINESS

The Board requested information on the status of the Environmental Justice (EJ) Policy and were informed that there had been staffing changes at EJ. The last update was they were still working on the comment and response document. In response to a question from the Board, Randy Shustack indicated that he has not seen any negative impact from the EJ Policy on the permitting process at the DMOs.

The Board also had a question about whether noncoal permitting had been discussed as being a part of the Streamlining Permits for Economic Expansion and Development (SPEED) initiative, to which Mr. Houtz indicated there had not been. He also indicated that the noncoal permits' complexity would be part of the problem with that inclusion in the SPEED initiative.

ADJOURNMENT/NEXT MEETING

A motion to adjourn was unanimously accepted by the Board. The meeting concluded at approximately 10:50 a.m. The next scheduled meeting is to be held on November 6, 2024, at 10:00 a.m., in Conference Room 105 of the Rachel Carson State Office Building in Harrisburg.

AGGREGATE ADVISORY BOARD (BOARD)
Wednesday, November 6, 2024
Hybrid Meeting (via Microsoft Teams)

VOTING MEMBERS OR ALTERNATES PRESENT:

William Ruark (Member – Meshoppen Stone, Inc. (MS, I))
Paul Detwiler, III – (Member – New Enterprise Stone & Lime Co., Inc. (NES&L)) Jonathan Kolbe (Member -- Allegheny Mineral Corporation (AMC))
R. Timothy Weston (Member -- K & L Gates, LLP / Citizens Advisory Council (CAC))
Thaddeus Stevens (Member -- Sylvan Glen, Inc (SGI)/CAC)
Robert Hughes (Member -- State Conservation Commission (SCC))
John St. Clair (Member -- Rosebud Mining Co./CAC)
Ian Irvin (Alternate – CAC)
D. Michael Hawbaker (Alternate -- Glenn O. Hawbaker, Inc.)
Peter Vlahos (Alternate – PA Aggregates and Concrete Association (PACA))
Andrew Gutshall (Alternate -- Heidelberg Materials, LLC)
Glendon King (Alternate -- PA House of Representatives)
Matthew Osenbach (Alternate – PA Senate)
Nathan Houtz (Alternate -- DEP -- Active and Abandoned Mine Operations (AAMO))

OTHER ATTENDEES:

Greg Greenfield (DEP – Bureau of Mining Programs (BMP))
Laura Mensch (DEP – BMP)
Gregory Shuler (DEP -- BMP)
Daniel E. Snowden, D.Ed. (DEP – BMP/Board Liaison)
Emily Fisher (DEP – BMP)
Rachel Colyer (DEP -- BMP)
Randy Shustack (DEP -- Bureau of District Mining Operations (BDMO))
Kerry Speelman (DEP – Bureau of Mine Safety (BDMS))
Jennifer McLuckie (DEP -- AAMO)
Michael Clark (Guest – NES & L)
Trent Machamer (Guest -- PA Senate (Research))
Megan Dennis (Guest -- PACA)

CALL TO ORDER

The meeting was called to order at approximately 10:00 a.m. by Nathan Houtz, Chair.

ROLL CALL/INTRODUCTIONS

Board members, alternates in the room who were present for the meeting were called by roll, facilitated by Dr. Snowden, to determine a quorum, others and guests in the room introduced themselves.

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.

APPROVAL OF MINUTES

The Board was asked by Jonathan Kolbe to revise the terminology on page 6, 2nd paragraph, to add a change of the draft meeting minutes from the August 28, 2024, which was approved, then the minutes were approved without objection.

CORRESPONDENCE

Dr. Snowden reported that letters of confirmation for the members of the Board have been accepted from CAC, State Conservation Commission, and the PA House and PA Senate.

PUBLIC COMMENTS

The floor was opened for public comments by the Chair; Dr. Snowden indicated that none had been submitted to the board.

COMMITTEE REPORTS

The Board's Regulatory, Legislative and Technical (RLT) Committee reported that they had met twice, on July 29 and May 7, and reviewed comments about the Technical Guidance Document (TGD) for Benching. The following concerns expressed by stakeholders at those meetings, however, were not incorporated in the final draft scheduled for publication in the PA Bulletin for public comment: *1) the recommended removal of the consequence matrix; and 2) the removal of the six-month approval for benching plans;* these were not accepted by the Department.

DELIVERABLES

Mr. Greenfield reported that there were four deliverables requested at the last meeting to be delivered today. There was a fifth item which came in following the meeting and was related to the eligibility of the noncoal program for the PAYback program; Mr. Greenfield explained that in Chapter 77, 106(a), it states that permit application fees for noncoal are non-refundable. Mr. Greenfield then explained that the first deliverable requested concerned how many permit denials are under appeal, and that there was one permit in that category, with a noncoal-related appeal which is related to a compliance order.

Three other items requested for this meeting included: *1) how many permit denials have been issued – this which will be addressed during the BMP update; 2) the fees that have been collected by the Department since 2012 – this will also be addressed during the BMP update; and 3) whether the number of permits was increasing or decreasing – this will be addressed during Mr. Shustack's DMO presentation.*

Mr. Greenfield indicated that any questions on the deliverables should be held until all items were addressed in the presentations.

BUREAU OF MINING PROGRAMS (BMP) UPDATES

The Board was provided with updates from Ms. Mensch on the following topics:

Noncoal Applications Breakdown

Ms. Mensch provided the Board with information regarding the distribution of applications across the District Mining Offices (DMOs). Data shown in the first table of the BMP update encompasses the summary of all noncoal applications received and disposed from January 1 to October 22, 2024. There is an added row at the bottom of the first table which indicates the number of permits denied, which was the first of two deliverables Mr. Greenfield indicated would be covered in this portion of the meeting.

Ms. Mensch then directed attention to the second table, showing the number of applications, distributed by type, currently in process for each of the offices, as of October 22.

- **Regulatory Agenda**

Ms. Mensch noted that on the table during this meeting, the date should read November 12, when BMP will present on the final omit blast clarification rulemaking at the Environmental Quality Board (EQB) meeting; rulemaking had been brought up previously at this board.

- **Non-Regulatory Agenda**

Ms. Mensch reported that BMP had been reported previously, is rescinding three Technical Guidance Documents (TGDs): 1) *Permit Transfer Completeness*; 2) *Review for Acceptance of Coal Mining Activity Permit*; and 3) *Fixing Water Samples*. The rescission notice was published in the most recent PA Bulletin on November 2.

- **ePermitting**

There were no updates on ePermitting.

- **Bonding and Bond Forfeitures**

Ms. Mensch delivered the update to the Board for fiscal and bonding; she reported that so far in 2024 there have been four small noncoal bond forfeitures, two additional from the last meeting: one in Susquehanna County, and one in Fayette County; also, there is still just one bluestone bond forfeiture as reported last meeting. She then shared the numbers for the current cash collateral bonds being held, the bonds underlying the Payment-in-Lieu-of-Bond (PILB) program, and bonds collected for noncoal bond forfeiture reclamation.

Ms. Mensch then moved on to share the information on the General Operations Fund, collateral bonds held by the Department, noting the numbers may appear different, but that is only due to the timing of the report. The last number reviewed was the amount of bonds collected to be used for noncoal reclamation.

She then moved on to review the amount generated into the Clean Water Fund so far in 2024, including both coal and noncoal, NPDES, Chapter 105 fees, and wetland encroachment fees; she noted that the number in the bottom row is just the amount that has been contributed as of September 30, 2024. Ms. Mensch wished to note that this is another deliverable being incorporated into the BMP update: expenditures versus revenue history for the last ten years, which will be included once a year, as the number for the previous fiscal year has been established.

The Board asked for clarification on the 6/1/24 expenditure, and why it is significantly less than before. Mr. Greenfield responded by explaining that starting in December of 2023, it was part of the priority permit program revision, when the noncoal program was moved back onto the general fund; this was done because the program was in danger of going into the red; this move would allow the revenue to build back up to tackle four high-profile forfeitures, and the goal for that is about \$8 million. There is no end planned currently to move the noncoal fund back onto its own again, as the goal is to have enough balance to protect ourselves, personnel costs then for bond forfeiture reclamation.

Ms. Mensch then reviewed the revenue totals by fee categories from July 1 to September 30. The expenditures were shown, and she reiterated Mr. Greenfield's statement about keeping the personnel costs low, as reflected in the chart.

UPDATE FROM BUREAU DISTRICT MINING OPERATIONS (BDMO)

Mr. Shustack provided the update for the Board, and stated he had one piece of information to share. He noted that the system of addressing the backlog of applications will be a little different going forward, by pulling together their resources to best utilize staff. Cambria and New Stanton offices will combine their technical staff. In this arrangement, Sean McMullen will be the Tech Chief, overseeing staff in both offices, due to the larger backlog in the New Stanton office, with the Cambria staff helping to address that. If this is successful, he will be looking at incorporating similar changes in other offices.

Mr. Shustack also wished to address the last deliverable, an overview of the noncoal applications and whether there had been an increase. He stated that he compared the numbers from January through to November from 2023 and 2024; 2023 had 1,236 applications during that time, while 2024 had 1095, a difference of about 141 applications. Mr. Shustack indicated that the monthly breakdown of applications received basically mirrored each other in those years, and that the most applications tend to arrive in the first quarter of the year, then slowly drop off.

The Board had a question regarding the staff at the DMOs, specifically, whether they will remain at their respective offices, but just be supervised by a new chief; this was acknowledged to be the case by Mr. Shustack. Also, the Board wished to have a clarification of the timeframe of the backlog being eased, and Mr. Shustack said he anticipates within the year, then further expanding this new model of staffing.

NEW BUSINESS

The Board was given the dates for the 2025 meetings: February 19, May 21, August 20 and November 5; these dates were chosen to ensure the same meeting room (Conference Room 105 in the Rachel Carson Building) could be secured for 2025.

ADJOURNMENT/NEXT MEETING

A motion to adjourn was unanimously accepted by the Board. The meeting concluded at approximately 10:45 a.m. The next scheduled meeting is to be held on February 19, 2025, at 10:00 a.m., in Conference Room 105 of the Rachel Carson State Office Building in Harrisburg.