

MEETING MINUTES

Oil and Gas Technical Advisory Board

August 8, 2018

TAB MEMBERS PRESENT

Voting Members: Bryan McConnell, P.G. (Chair), Casey Saunders, P.E., Fred Baldassare, P.G.

Non-voting Advisors: Michael Griffin, Ph.D., John Walliser, Esq.

DEP STAFF PRESENT

Scott Perry, Kurt Klapkowski, Seth Pelepko, Joe Kelly, Ann Mathews, Todd Wallace, Jennie Demjanick

CALL TO ORDER

A meeting of the Oil and Gas Technical Advisory Board (TAB) was held via conference call in Room 105 at the Rachel Carson State Office Building, 400 Market Street, Harrisburg. This meeting was open to the public. McConnell called the meeting to order at 10:02 a.m. and opened the meeting with introductions. Perry provided welcoming remarks.

APPROVAL OF MEETING MINUTES

McConnell asked for a motion to approve the meeting minutes of the May 10, 2018 TAB meeting. Saunders made a motion to approve the meeting minutes and Baldassare seconded. McConnell asked if there was any further discussion or suggested edits to the meeting minutes. McConnell stated that the meeting minutes referenced the “Well Plugging Fund” and asked if this is the proper name of that fund. Perry responded that this is the accurate name of the fund. McConnell requested a vote and the meeting minutes were passed by TAB unanimously.

STATUS OF AREA OF REVIEW TGD AND PRESSURE BARRIER TGD

Area of Review TGD: Pelepko reported that the Area of Review TGD was refined based on prior public comment and feedback from TAB. This TGD was transmitted to DEP’s Policy Office for review in mid-June and expects the guidance to be published as final in the *PA Bulletin* during the third quarter of 2018.

Pressure Barrier TGD: Pelepko explained that several comments were received after the May 10, 2018 TAB meeting and these comments are currently under review. The TGD will be advanced for publication in the *PA Bulletin* during the third quarter of 2018.

STATUS OF COAL/GAS COORDINATION TGD

Saunders reminded TAB members that the Coal/Gas Coordination TGD is currently an interim final document and asked Pelepko if he could provide a general update to TAB. Pelepko stated that DEP received comments on the TGD and is preparing the Comment/Response Document. The TGD will be advanced to DEP's Policy Office for review and approval when completed. The Coal/Gas workgroup did not meet over the summer due to other priorities, but will be reconvened in the third quarter of 2018.

Pelepko stated that the workgroup was most recently focused on discussing methodologies for safely drilling in gob areas with sealed off active portions of longwall mines. Pelepko explained that there are not many natural gas operators that have holdings within these areas to incentivize these methodologies. Saunders responded that developing this document seems to be a worthwhile effort, but the development of this document should be driven by the oil and gas industry. The coal industry is willing to assist with this effort as necessary.

Saunders asked if the TDG is on track to be developed by the third quarter of 2018. Pelepko responded that, at this point, his best estimate is the TGD will be developed by the fourth quarter of 2018. Saunders commented that he understands the development of the TGD should not be rushed, but he does not want to submit conditional pillar permits, inactive status notices and re-entry plans before the TGD is finalized. He does not want to risk the possibility that he must resubmit the documents if major changes are made to the TGD by DEP. Saunders stated he is aware of several upcoming projects in 2019 where the TGD would help guide the process.

STATUS OF "DRILLING BEHIND MINING SUBCOMMITTEE"

Saunders reported that industry has many years of experience with the practice of drilling behind mining so the subcommittee is mainly working to formulate guidance to capture these practices in writing. Saunders stated that the subcommittee is taking a break until October 2018, but a process flowchart has been developed and subcommittee members have provided initial feedback. Saunders expects the document to be completed by the end of calendar year 2018. McConnell commended the committee for their ongoing efforts.

STATUS OF FIRST TAB-CDAC PLUGGING WORKGROUP MEETING

McConnell stated that this represents another good example of a workgroup that has been formed to address technical issues and the interaction between regulations and statutes. The ultimate objective is to see a reduction in the number of legacy wells in Pennsylvania.

Pelepko explained that DEP is focused on addressing legacy wells despite the increasing inventory of legacy wells in Pennsylvania and the significant funding shortfall that exists to address this matter.

The first meeting of the TAB-CDAC Plugging Workgroup was May 15 and the overarching goals of the workgroup were to determine ways to control plugging costs while protecting the environment, encourage clear and consistent application of the plugging regulations and provide input to DEP on the development of updated plugging regulations.

Pelepko summarized the key points that were discussed during the workgroup meeting and reported that the workgroup intends to meet on a quarterly basis. The next workgroup meeting is tentatively scheduled for either August 28 or 29. Baldassare stated that it might be difficult for him to attend all future quarterly meetings. Pelepko responded that DEP will attempt to provide an option for members to participate via conference call to minimize travel.

Perry emphasized that the main purpose of the workgroup is to consider ways that plugging costs can be controlled so that more funding is available to plug additional legacy wells. Perry encouraged the workgroup to focus on issues that will result in the largest cost saving measures.

Perry stated that though industry has suggested that DEP's current oil and gas complement or funding levels should not be increased, this workgroup is an example of DEP partnering with industry to provide the support needed to deliver meaningful improvements to current policies and practices when appropriate resources are made available.

PROPOSED OIL AND GAS PERMIT APPLICATION FEE UPDATE

McConnell asked Perry to provide an update on the status of the proposed oil and gas permit application fee rulemaking. Perry responded that the comment period closes on Monday, August 13. DEP will review and respond to all comments and plans to present a final rulemaking package to TAB in the second quarter of 2019.

Perry stated that he wants to consider alternatives to fund DEP's oil and gas program instead of relying on the current permit fee model. Perry would like for DEP to move away from the current model of a one-time permit application fee since it is an unpredictable and does not allow DEP to effectively budget for the oil and gas program. Perry plans to reach out to industry stakeholders to begin a dialogue after the comment period for the rulemaking closes.

McConnell asked Perry if he thought the Legislature would oppose the oil and gas permit application fee rulemaking. Perry responded that it might depend on the reaction from the industry. Perry explained that he has appreciated industry's position in the past in

recognizing the need for a properly funded oil and gas program. Perry believes that DEP's oil and gas inspection and permit goals are sound and the Department is fiscally responsible with its spending. If future revenues can be secured from other sources of funding, then it is possible the permit fee could be decreased.

ESCGP-3

Kelly explained that three separate workgroups are being convened to assist with various aspects of the Erosion and Sediment Control General Permit-3 (ESCGP-3). The "Permit Workgroup" is focused on updating the permit document and convened its first meeting on June 25. The "Prioritized Permit Review Workgroup" has not yet convened, but will be formed to develop criteria and a ranking system for enhanced permit reviews based on best environmental practices. Finally, the "ePermitting" workgroup is scheduled to begin beta testing the ESCGP-3 electronic permit tool in mid-September.

Kelly discussed some of the highlights of the roll-out and transition from ESCGP-2 to ESCGP-3. The ESCGP-2 permit will remain in use and available to permit applicants until October 15, 2018. There will be a 60-day period to reconcile technical deficiencies of ESCGP-2 permit submittals until December 14, 2018. This will allow for a short overlap of the usage of the ESCGP-2 and ESCGP-3 permits until December 29, 2018 when the ESCGP-3 goes into effect.

According to Kelly, ESCGP-3 permit applications for transmission pipeline projects will be reviewed by county conservation districts rather than DEP. ESCGP-3 permit applications for non-transmission pipeline projects may be submitted to DEP on September 20 until the ESCGP-2 permit application expires. Operators can submit paper copies of the ESCGP-3 permit application until December 29, 2018.

Perry commented that DEP's goal is to transition from the current paper-based ESCGP-2 permit to an electronic permit. The process to develop an electronic permit is very detailed and extensive; therefore, additional revisions might be necessary after it is launched.

Kelly explained in detail the updates and changes that have been made to each section of the ESCGP-3 permit application.

PUBLIC COMMENT

Chairman McConnell announced that TAB was prepared to receive comments; however, no person in attendance provided comment.

NATURAL GAS STORAGE WORKGROUP UPDATE

Pelepko provided an update to TAB about the accomplishments of DEP and the Natural Gas Storage Workgroup. He explained that following a catastrophic event that occurred in California (aka, Aliso Canyon) that resulted in a significant breach from a natural gas

storage reservoir in that state, DEP formed an internal technical workgroup to examine Departmental operating procedures to determine if changes were necessary. DEP developed a Standard Operating Procedure for use by district inspectors to ensure that inspections of natural gas storage reservoirs are thorough and are conducted consistently throughout the Commonwealth.

Pelepko reported that, after focusing on internal operations, DEP convened a Natural Gas Storage Workgroup to focus on issues affecting natural gas storage operators. The workgroup met on June 13 and 14 and the meeting was well attended. All natural gas operators with active operations in Pennsylvania participated in the meeting along with DEP staff. The workgroup conducted a thorough review of the statutory and regulatory framework for natural gas storage operations. Pelepko stated that DEP plans to develop a mobile inspection module that will allow DEP inspectors to conduct electronic inspections of natural gas storage facilities in Pennsylvania. On the second day of the workgroup meeting, DEP presented the findings of a statistical analysis related to identifying potential “single points of failure” related to the construction and operation of natural gas storage wells and reservoirs. In response to this, DEP worked with natural gas storage operators to examine past data sharing efforts and promote the collection and sharing of storage well and reservoir data. Pelepko commended the natural gas storage operators for their rapid response in providing meaningful data and for operating in a transparent manner.

Before the discussion proceeded to the topic of the Draft Environmental Justice Public Participation Policy, Klapkowski interjected that he wanted to revisit an issue that was captured in the draft Meeting Minutes from the May 10, 2018 TAB meeting. Specifically, Klapkowski provided an update on the “Guidance Document on Radioactivity Monitoring at Solid Waste Facilities.” This guidance document was originally published on January 2, 2004 and DEP’s Bureau of Waste Management and Bureau of Radiation Protection are currently working to update this guidance document. The guidance will include a section that pertains to generators of waste and will apply to some oil and gas operators that generate solid waste (e.g., drill cuttings) for transportation off the well site. Klapkowski has already followed up with David Allard, Director of the Bureau of Radiation Protection, and asked him to discuss this draft guidance document at the next TAB meeting or the first TAB meeting in 2019.

DRAFT ENVIRONMENTAL JUSTICE PUBLIC PARTICIPATION POLICY

Klapkowski provided background information and an update on the status of the Draft Environmental Justice Public Participation Policy. DEP conducted a series of listening sessions throughout Pennsylvania regarding this draft policy and received feedback about classifying the Drill and Operate a Well Permit as a “trigger permit”. The draft policy defines a trigger permit as a “*specific permit located in an Environmental Justice Area that may lead to significant public concern due to potential impacts on human health and the environment.*” DEP decided to not include the Drill and Operate a Well Permit as a trigger permit in Appendix A of the draft policy, since the Oil and Gas Act includes a statutory requirement for making a permit decision within 45 days. This mandate cannot

be achieved if DEP is bound by the public meeting and public comment provisions of the draft policy. However, Klapkowski pointed out that a permit to construct a Class II Underground Injection Control well for waste disposal is currently listed in the draft policy as a trigger permit since an expanded and prescribed process for public participation already exists for this permit.

DEP published the Draft Environmental Justice Public Participation Policy in the *PA Bulletin* on July 14, 2018 for comment which closes on August 28.

McConnell asked if the recent Pennsylvania Supreme Court decision regarding the Mars Township v. REX Energy case will have a bearing on the draft policy. Perry responded that it is possible to address environmental justice concerns separate from the permit process. Perry stated that the goals of the draft policy could be achieved while meeting the statutory permit review timeline through decoupling the public review process from the permitting process. Perry cited an example of a situation where an unconventional operator (Huntley and Huntley) successfully reached out to a local community in Plum Township and conducted public meetings to inform the local community about its operations. Perry explained that DEP and operators should consider meeting jointly with local communities to facilitate a constructive dialogue and answer questions about oil and gas permits and projects. Perry plans to discuss this concept further with the DEP Environmental Justice Director.

WELL DEVELOPMENT IMPOUNDMENT UPDATE

Klapkowski provided an update regarding the implementation of the well development impoundment standards found at 25 Pa. Code § 78a.59b.

Specifically, Klapkowski discussed the new requirements for well development impoundments that existing prior to promulgation of Chapter 78a and the Pennsylvania Supreme Court's June 4, 2018 decision reversing the Commonwealth Court's preliminary injunction of Section 78a.59b(b).

On July 14, 2018, DEP published notice in the *Pennsylvania Bulletin* clarifying the compliance deadlines in Section 78a.59b(b).

NEW BUSINESS

McConnell reported that Mr. Carl Carlson is unavailable to discuss the "Legacy Well White Paper" at today's TAB meeting.

ADJOURNMENT

McConnell asked if there was a motion to adjourn the meeting. Saunders made a motion to adjourn the meeting and Baldassare seconded. Motion passed unanimously and the meeting was adjourned at 12:17 pm.