

# EEC /ACEC-KY

## Partnering Subcommittee Meeting

April 18, 2017 – 1:00 pm

# Minutes of Meeting

Attending the meeting for EEC was Allen Luttrell, John Small, Jeff Baird, Courtney Skaggs, Anna Kunzler, Robert Frazier, Linda Fisher and Pete Poynter

Attending the meeting for ACEC-KY was David Rasnick, Karen Rose, Randy Scott, Tracy Goff, Charlie Bishop, Jim McGowan and Russ Romine.

The following are in same order as the agenda items:

- 1. Coordinated reviews with MSHA and the Cabinet – Follow up:** Charlie talked with MSHA - Pittsburg and with KY MSHA District / Cabinet quarterly meeting. He was told MSHA has no review clock time frame and it could take 4 months to over a year to complete review. Most all permits are sent up to Pittsburg as the District managers assume they do not have expertise to meet Matrix they have to comply with to do reviews in their district offices. Some have a limited review capability.

Gary Gilliam suggested the MSHA application be submitted to MSHA, reviewed the first time and all comments be addressed. Then resubmit the application back to MSHA while simultaneously submitting the initial application to the Cabinet including the addressed MSHA comments.

Allen noted that back in past, the Cabinet considered taking the approved MSHA application as most of the technical part of the Cabinet's requirements. This concept was not accepted.

Charlie mentioned that sites with complicated conditions should have a joint MSHA, Cabinet, Consultant and Owner meeting at the site prior to any submittals. Allen said the Cabinet would be glad to be part of this meeting.

- 2. LTT Ponds – Stand-a-lone increments. Combine permits with LTT issues into a single permit – Follow up:** David asked if permittee would do bond releases such that all that was left on a permit were increments that contained LTT Ponds, Pond Access and Pond Dipping Storage Areas. We would then combine multiple permits into a single permit. Allen agreed this could be done as long the final permit contained the components listed above. He agreed that we could use fewer pond dipping storage sites and haul material from multiple ponds to said site. He said common sense needed to be used in combining these sites such as keep in same county, in area of a single inspector, in same larger watershed, etc. Do not combine sites all across Pike County into one permit.

There will be pros and cons to doing this. The number of permits will decrease for operators which will allow inspectors to decrease their permit count also. There will be fewer renewals to do. An operator could get into a Pattern of Violation a lot quicker if multiple ponds now on the same permit were to be out of compliance.

- 3. Why change permit numbers when permits are transferred – Follow up:** Allen said he is OK with this if the details can be worked out and it is not hindered by any previous legal agreements. There will be a committee formed with ACEC-KY and EEC to coordinate this.

- 4. Consultant submitting incomplete applications:** This is a concern that needs to be addressed not only for from the Cabinet but also within the Engineering Associations.

David checked with the PE Board and it was determined that if a Professional Engineer was intentionally submitting known substandard information / designs just to meet some sort of self-imposed clock or for whatever reason, they may be in violation of the "Code of Ethics" that each PE needs to adhere to. Though the Cabinet has no intention of reporting any Engineer, we all should be cautious submitting such work.

- 5. LTT Ponds, how to get of LTT Pond List:** Courtney is revising current LTT policy. She will bring industry in to discuss. There is not consistency with DMRE on placing structures on list and this should be the call of the Director. There are ponds that should be "temporary treatment" but not technically LTT, (Long Term Treatment) such as ponds associated with coal stockpiles, prep plants, pump discharges, etc. that will cease to need treatment once the site is reclaimed or pump discharges are turned off.
- 6. Inspections that do not mandate violations being written:** David asked since Mine Safety is now conducting one of their inspection days as a "safety training day", could DMRE do a similar thing? For example, when they are requested to come out and discuss a potential problem, they will not be required to write a violation if one exists. Allen stated that the operator should be talking with DMRE before it becomes a problem. Though they are required to write all seen violations, he will re-confirm to the inspectors that preventive enforcement should be done whenever possible.
- 7. Shadow Area not part of Bonded Permit Area RAM:** Tracy asked if the RAM concerning shadow areas for deep mining include Auger / Highwall Mining Areas. Jeff said it is more than just a RAM. It will more importantly be Regulation changes. They are now reviewing which Regs this affects. He believes this is going to primarily change the public notice requirements particularly in the listing of ownership of surface property over the underground mining area. Extent of mining will still be required in some form. This is in the early stages within the Cabinet.
- 8. Simplify Dual Acreage Identification:** Tracy noted that there needs to be consistency on how to identify dual usage acreage on the MRP map and Incremental Bonding map. It can be done 10 different ways all of which are correct but different. Linda and Anna both agree. The Cabinet stated that they will come up with as simple way as possible to show this while keeping within the Regulations. They will have training for their reviewers and will talk with us during the process.
- 9. DMRE Consistency:** David asked Courtney if ACEC-KY could help with her efforts to bring consistency to the inspectors with use of check list of things they need on certification, etc. Courtney said she would rather use the regulations with its listed minimum requirements as the guide lines for all the regional offices.
- 10. Reconcile Lat. & Long. Issues on SME – 90 forms without requiring new permitting actions:** Tracy asked what the tolerance is as to how close the Lat. & Long. have to be and was told within 100 ft. The Cabinet stated that it can be corrected in the mid- term, renewal or next permitting action. Jeff noted that these may be discussed on case by case bases if it is warranted.

Courtney reminded us that she is having training on the SME-90 form on June 8, 2017 for the industry. It will be at the EEC Building (300 Sower Boulevard) in Frankfort at 9:00am in the first floor Training Room A. The presentation will last about an hour with Q & A afterwards. It is suggested to use/review the form prior to coming to the meeting so that all questions will be brought up and answered.

- 11. Contemporary Reclamation Variance (CRV) – Watershed Modeling:** Tracy stated there are comments in mid-terms that require certain ponds that control CRV be modeled using all the area as Bare, Backfilled and no Vegetation. Cabinet wants it to be modeled in the worst case it will be mined. Total Bare is

probably not the answer but a good description with the model to back up the description is what is needed.

There were issues last year with ponds not functioning as designed and some were relative to CRV.

Pete also wants better explanations on pond design with its associated clean out plan. His comments along with Courtney's are the inspectors need a better narrative on what to look for in the permit application.

Tracy asked what if mining is done in a way that does not merit a "change of operation" revision but is not exactly what was laid out in permit package. Allen said as long as doing the change does not create a situation that is worse than the shown "Worse Case Scenario", that should be OK. You can mine from left to right instead of right to left, but you cannot propose mountain top removal by ringing the mountain and cross cutting it, then all you do is ring the mountain.

**12. How do we find out "Hot Topic" issues of the Cabinet:** Allen stated the DMR and DMRE does regular in house training of their staff. He will consider creating a way the industry can be privy to this training such as with posting training sessions via "You Tube" type video on their web site??????

**13. Guidelines for specific designs:** Tracy asked if there are documented guidelines for how to designs certain type structures. The Cabinet says there are structure specifications in some of the previous handbooks that have been used in the past.

Allen suggested that part of these quarterly meetings should have a specific design aspect where we all discuss what should be used in certain situations. We are to send the topic to Jeff prior to the meeting so he can be prepared to discuss.

**14. SMP-60 & SMP-61 Timely Review:**

- a. Linda stated that the SMP-60 needs to come to DMP website for review. They will then inform MSHA they are there for them to get and review.
- b. Courtney said she will be sure the FTP site that the SMP-61 are sent to will be checked on a more regular bases. She said we can contact Mike Roark or Martie Brashear to inform them a SMR-61 has been submitted so that we can be assured it will be put on into the system.

**15. Staffware Issue:** Karen stated there have been issues with Administrative Bond releases due to Staffware issues. Courtney said the issue has been fixed.

**16. Are Dug-Outs shown on Permit actually Dug-Outs:** Allen said there are becoming concerns that structures identified as Dug-Outs actually have embankments associated with them thus they are not Dug-Outs. The Cabinet will be looking closer at the design and construction of Dug-Outs to confirm they are built totally as incise ponds and not above the ground. He is concerned if they are built next to the undisturbed berm without removing the top of the berm above the "Top of Pond" elevation (bottom of coal seam), that may not be a true Dug-Out. This is in the early stages of being looked into and will be discussed again.

**The next meeting will be July 19, 2017.**

**All the EEC/ACEC-KY meetings will be discussed in the KCA Environmental Committee Meetings.**

**NOTE:** If anyone has any topics that need to be discussed, please send them to anyone on the ACEC-KY Mining Subcommittee or to David Rasnick at [drasnick@summit-engr.com](mailto:drasnick@summit-engr.com). They will be discussed and reported in the KCA meetings and in the minutes of the ACEC-KY meeting.