

**Fall 2015 Meeting of ACCCI's
 Manufacturing, Environmental and Safety & Health (MESH) Committee
 Thursday, October 15 - Friday, October 16, 2015
 Hilton Garden Inn Raleigh-Durham/Research Triangle Park
 4620 South Miami Blvd.
 Durham, NC
 Tel.: 919-941-6066**

Agenda

Thursday, October 15, 2015

Davis Moore Meeting Room

Hotel - Provided Breakfast Available

7:30 am	Call-to-Order (CTO) of the MESH Committee Meeting - Introductions [p. 3] - Date/Location of the Next Meeting? - Overview of Meeting Schedule - Other Issues [pp. 4-5]	Dean Bishop (ABC Coke), Committee Chairman
7:45 am	CTO of the MESH Environmental Subcommittee Meeting	Brenna Harden (DTE), Subcommittee Chair
7:50 am	Clean Air Act (CAA) Update [pp. 6-8]	Jeff Knight (PWSP)
8:45 am	Break	
9:00 am	Clean Power Plan (CPP) Update [pp. 9-14]	Roger Martella (Sidley Austin)
9:45 am	Environmental Regulatory Update [pp. 15-23]	David Ailor
10:00 am	Update on COETF Activities on EPA's Pushing, Quenching & Battery Stack (PQBS) RTR Review/Rulemaking	David Ailor
11:00 am	Update on EPA's Activities on the Agency's PQBS RTR Review/Rulemaking	Donna Lee Jones (EPA-OAQPS) and Chuck French (EPA-OAQPS)
12:00 Noon	Group Lunch	
1:00 pm	Roundtable Discussion - Inspections, Permitting, Projects, <i>Etc.</i> - Other topics TBD	All
2:00 pm	CTO of the MESH Manufacturing Subcommittee Meeting	Joe Clute (DTE) for Rob Carlin (DTE), Subcommittee Chairman

2:00 pm	“Hamon Custodis – Capabilities and Chimney Liner Replacement Case Studies”	Victor Bochicchio and Jeremy Stegemiller (Hamon Custodis)
3:00 pm	Break	
3:15 pm	Manufacturing Roundtable Discussion - Projects, Maintenance, Repairs - Machinery Issues - Instrumentation Issues - Operating Practices - Refractories, Materials	All
4:15 pm	CTO of the MESH Safety & Health Subcommittee Meeting	Terry Wagaman (DTE), Subcommittee Chairman
	Safety/Health Regulatory Update	David Ailor
4:30 pm	Status of Industry and EPA Risk Assessments of Naphthalene and PAHs	Anne LeHuray (PCTC)
	Roundtable Discussion - OSHA Inspections, Citations, Incidents - Other topics TBD	All
6:30 pm/ 7:00 pm	Group Reception/Dinner	MEZ 5410 Page Rd #8 Durham, NC 27703 919-941-1630

Friday, October 16, 2015

Hotel - Provided Breakfast Available

7:30 am	CTO of the MESH Quality Subcommittee Meeting	Tommy Pike (ABC Coke), Subcommittee Chairman
	ASTM Developments [pp. 24-35]	
	Other Topics	
8:30 am	CTO of the MESH Human Resources Subcommittee Meeting	Don Wiggins (Walter Coke), Moderator
	Roundtable Discussion - Union Issues, Employee Policies, <i>Etc.</i>	All
10:30 am	Other Business of the MESH Committee	All
11:00 am	Adjournment - Lunch on your own	

Fall 2015 Meeting
of the ACCCI MESH Committee
RTP, NC
October 15-16, 2015

Name	Company	October 15 Meeting	October 15		October 16 Meeting
			Lunch	Dinner	
Dean Bishop	ABC Coke	1	1	1	1
Tommy Pike	ABC Coke	1	1	1	1
Jay Cornelius	ABC Coke (Lauren Cornelius)	1	1	2	1
Bill Osborn	ABC Coke	1	1	1	1
Katie Kistler	AK Steel	1	1	1	1
Joe Clute	DTE	1	1	1	1
Mohamad Elbeitam	DTE	1	1	1	1
Brenna Harden	DTE	1	1	1	1
Steve Zervas	DTE	1	1	1	1
Peter Libell	DTE-Shenango	1	1	1	1
Liesa Stiller	DTE-Shenango	1	1	1	1
Randy Wiler	Erie Coke	1	1	1	1
Dusty McCain	SunCoke	1	1	1	1
Ed Dinsmore	Tonawanda Coke	1	1	1	1
Mike Trembowicz	Tonawanda Coke	1	1	1	1
Charles Jones	Walter Coke	1	1	1	1
Victoria Morton	USS	1	1	1	1
David Ailor	ACCCI	1	1	1	1
Al Dittenhoefer	Enviroplan Consulting	1	1	1	
Donna Lee Jones	EPA-OAQPS	1	1		
Chuck French	EPA-OAQPS Metals Group	1	1		
Victor Bochicchio	Hamon Custodis	1		1	
Jeremy Stegemiller	Hamon Custodis	1		1	
Jeff Knight	PWSP (CAA Speaker)	1	1		
Bob Ajax	Former COETF Consultant			1	
Steve Felton	Former COETF Representative for AK Steel			1	
	TOTALS	24	22	24	18

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ANTITRUST REMINDER

1. It is the policy of the American Coke and Coal Chemicals Institute (“ACCCI” or the “Institute”) and its members to strictly comply with all applicable antitrust laws. As part of ACCCI’s antitrust compliance, this Antitrust Reminder is read aloud at the beginning of appropriate meetings of the Institute. The Antitrust Reminder is also recorded in the agenda and the minutes, to emphasize ACCCI’s antitrust compliance as a protection for the Institute and the members.
2. Because ACCCI provides an opportunity for members who may be competitors to communicate on issues that concern them, the Institute and members must be sensitive to the antitrust laws. ACCCI brings significant pro-competitive benefit to its members and the industry, and this is encouraged under the antitrust laws.
3. At the same time, ACCCI and members must ensure the association is not misused as a vehicle for anticompetitive agreements on commercial matters including, prices or other terms or conditions of sale, production volumes, the supply of specific customers and territories, the boycott or exclusion of other firms, or other unlawful activities. In addition, ACCCI and its members must avoid even the appearance of these activities. For these reasons, the following topics may not be discussed without prior review and approval by counsel: (a) current or future prices, or any other terms related to price including discounts, credit and payment terms, or delivery charges; (b) who will serve specific customers, markets or geographical areas; (c) whether or not to deal with a competitor, customer or supplier; (d) non-public marketing, product or service plans; or (e) non-public information concerning costs, profits, customers, booked business, etc.
4. The meeting will follow the approved agenda, and topics not on the approved agenda should not be discussed inside the meeting or in hallway discussions outside the meeting. In addition, minutes will be maintained of the meeting. The use of an agenda and minutes are part of ACCCI’s antitrust compliance policy, and they provide a record of the Institute’s legal compliance. In addition, legal counsel or association staff who have access to legal counsel will be present and will monitor the meeting for antitrust compliance. Please direct any questions regarding antitrust compliance to them, or after the meeting to the legal counsel for ACCCI.

AMERICAN COKE AND COAL CHEMICALS INSTITUTE
 Fall 2015 Meeting of the ACCCI MESH Committee
 Thursday, October 15 – Friday, October 16, 2015
 Hilton Garden Inn Raleigh-Durham/Research Triangle Park
 4620 South Miami Blvd.
 Durham, NC
 Tel.: 919-941-6066

MEETING EVALUATION FORM

On a scale of 1 to 5, with 1 being "poor" and 5 being "excellent," please rate the meeting relative to the following:

MEETING

Poor -----> Excellent

Overall Meeting Format: 1 2 3 4 5

Overall Meeting Content: 1 2 3 4 5

Meeting Management: 1 2 3 4 5

Length of Meeting (circle one): Too short Ideal Too long

Suggested Improvements: _____

FACILITY

Poor -----> Excellent

Hotel Accommodations: 1 2 3 4 5

Hotel Location: 1 2 3 4 5

Food Quality and Selection: 1 2 3 4 5

Hotel Personnel: 1 2 3 4 5

Suggested Improvements: _____

GENERAL COMMENTS

OPTIONAL

Name: _____ Company: _____

**Please return this form to Dave Ailor at ACCCI Headquarters:
 866-422-7794 (eFax) or dailor@accci.org**



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Practice Areas/Industries

- Environment, Land Use & Natural Resources
- Air Quality Regulation
- Environmental Litigation
 - Appellate
- Real Estate
 - Public-Private Partnerships & Military Housing
- Nonprofit Organizations
- Clean Technology

Focus Teams

- Unmanned Aircraft Systems
- Public-Private Partnerships
- Crisis Management

Jeff Knight is the leader of Pillsbury’s Environment, Land Use & Natural Resources practice in the Washington, DC office. He concentrates his practice in areas of environmental compliance counseling, risk management in business transactions, and environmental litigation. He primarily counsels public and private companies and trade associations regarding Clean Air Act and Clean Water Act compliance and enforcement issues, risk management in business and real estate transactions, and air-quality and toxic tort environmental litigation.

Mr. Knight is involved in numerous prominent rulemakings and appellate challenges to Clean Air Act regulations, such as the challenges to U.S. Environmental Protection Agency’s section 129 standards for sewage sludge incinerators (SSI), the particulate matter (PM) and ozone (O3) National Ambient Air Quality Standards (NAAQS), the credible evidence rule, the ozone transport rules (the NOx SIP call), and many hazardous air pollutant Maximum Achievable Control Technology (MACT) rulemakings.

Mr. Knight also advises clients on environmental risk management in business transactions, including real estate redevelopment and transfer; in military housing privatization transactions; and in the environmental review processes under the National Environmental Policy Act (NEPA) and state “mini-NEPA” laws. Significant NEPA projects include the build-out of three terminals at JFK International Airport in New York City; federal construction projects in Washington, DC; and the proposed expansion of O’Hare International Airport in Chicago.



In addition, a substantial portion of Mr. Knight's practice consists of environmental counseling and auditing to identify issues of potential non-compliance and defend against government enforcement actions. He has negotiated numerous successful settlements of federal and state enforcement cases, with the goals of achieving compliance with the law, minimizing penalty exposure, and achieving the client's business objectives.

Education

J.D., University of Chicago Law School, 1996

B.A., Political Science, Amherst College, 1993, *magna cum laude*

Admissions

District of Columbia

Commonwealth of Virginia

Courts

U.S. Supreme Court

Supreme Court of Virginia

U.S. Court of Appeals for the District of Columbia Circuit

U.S. District Court for the District of Columbia

U.S. District Court for the Eastern District of Virginia

Affiliations

American Bar Association

District of Columbia Bar Association

Virginia Bar Association

External Publications

Minimizing the Impact of the National Environmental Policy Act on Public-Private Ventures, *Real Estate Finance Journal*, Authors: Jeffrey A. Knight, William A. Wilcox Jr., Winter 2011

Firm Publications

The U.S. Supreme Court Upholds EPA's Cross-State Air Pollution Rule in *EPA v. EME Homer City Generation, L.P.*, Paving the Way to Further Use of Cap-and-Trade Programs to Control Emissions of SO₂ and NO_x from Electric Power Plants., Authors: Peter H. Wyckoff, Michael R. Barr, Jeffrey A. Knight, Anthony B. Cavender, Matthew W. Morrison, Corrie L. Plant, 5/9/2014

Be Careful What You Look For: EPA Updates "All Appropriate Inquiries" Environmental Diligence Standard, Authors: Norman F. Carlin, Jeffrey A. Knight, Alina J. Fortson, Joseph Ferranti, 1/8/2014

Did EPA Overstep in Applying Soil Vapor Intrusion Guidance to Commercial Buildings?, Authors: Reza Zarghamee, Sheila McCafferty Harvey, Peter H. Wyckoff, Jeffrey A. Knight, 8/19/2013

Minimizing the Impact of the National Environmental Policy Act on Public-Private Ventures, Authors: Jeffrey A. Knight, William A. Wilcox Jr., Summer 2011

Perspectives on Real Estate, Authors: Glenn Q. Snyder, Kimberly C. Moore, Jeffrey A. Knight, Josephine S. Lo, Ignacio Barandiaran, H. Carl Moultrie III, William A. Wilcox Jr., Daniel S. Herzfeld, Summer 2011

U.S. Department of Defense Outlines Plans for \$7 Billion in Economic Stimulus Spending, Authors: Jeffrey A. Knight, Lee C. Carter, Yann H.H. van Geertruyden, 3/24/2009



ROGER R. MARTELLA, JR.

Partner

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rmartella@sidley.com

PRACTICES

- Energy
- Environmental
- Government Strateg
Strategies

AREAS OF FOCUS

- Administrative Law
Appeals
- Climate Change
- Compliance
Management
- Contaminated Sites
and Natural Resource
Damages
- Energy and
Transportation Law

ROGER MARTELLA is a partner in the Environmental practice group at Sidley Austin LLP. He rejoined Sidley Austin LLP after serving as the General Counsel of the United States Environmental Protection Agency, concluding 10 years of litigating and handling complex environmental and natural resource matters at the Department of Justice and EPA.

Mr. Martella's practice focuses on three primary areas. First, Mr. Martella advises companies on developing strategic approaches to achieve their goals in light of rapidly developing demands to address climate change, promote sustainability, and utilize clean energy. Second, Mr. Martella handles a broad range of environmental and natural resource litigation and mediation. Third, Mr. Martella advises multinational companies on compliance with environmental laws in the United States, China, the European Union, and other nations.

Mr. Martella counsels approximately 40 of the world's leading conventional and renewable energy, industrial, transportation, agricultural, forestry, and technology companies on bet-the-company environmental issues, regulatory matters, and litigation including transitioning to an era of legal controls addressing greenhouse gas emissions, increasingly stringent pollutant controls, alternative and clean energy, hydraulic fracturing, and sustainability both in the United States and abroad. Mr. Martella has counseled companies on the successful acquisition of more than \$6 billion in stimulus funding to support advanced technology vehicles, smart grid projects, and other alternative energy projects.

Mr. Martella employs a strategic, forward-looking approach to solving emerging law and policy issues across the world that have the potential to create both opportunities and risks for domestic and multinational energy and manufacturing companies and industries. Mr. Martella's

- Appeals
- Environmental Appeals Appeals
- Environmental Aspects Aspects of Transactions and SEC Disclosure
- Environmental Crisis Management
- Environmental Enforcement, Litigation and Internal Investigations
- Environmental Experience in the Energy Sector
- Environmental Torts and Public Nuisance Litigation
- EU Environmental
- EU Law and Regulation
- Land Use and Government Relations
- Nanotechnology
- NEPA and Natural Resource Protection
- Oil and Natural Gas Pipelines
- Regulatory Advocacy and Counseling

approach is to build a collaborative and coalition-building framework that seeks the strongest possible results through up front coordination with government, industry, and NGO stakeholders, leveraging his strong honest broker relations with government officials and understanding of government approach to realize resolutions that have led to extraordinary favorable settlements offering significant regulatory relief to industries and pennies-on-the-dollar enforcement settlements for companies.

Mr. Martella was unanimously confirmed by the United States Senate as EPA General Counsel. In that role, Mr. Martella served as EPA's chief legal advisor supervising an office of 350 attorneys and staff in Washington and 10 regional offices. At EPA, Mr. Martella served as Agency counsel on six Supreme Court decisions, including *Massachusetts v. EPA* (climate change); *Defenders of Wildlife v. EPA* (finding no Endangered Species Act duty to consult when approving state water program); *EPA v. Rapanos* and *Maine v. S.D. Warren* (landmark decisions addressing federal jurisdiction over waters of the United States); *Environmental Defense v. Duke Energy* (addressing Clean Air Act enforcement against powerplants); and *U.S. v. Atlantic Research Corp.* (the Court's most recent decision regarding CERCLA).

In particular, Mr. Martella led the team responsible for developing for the first time under the Clean Air Act the federal government's climate change legal framework and options in response to the landmark Supreme Court decision *Massachusetts v. EPA*, which held greenhouse gases to be air pollutants under the Clean Air Act. His efforts included developing a full range of legal options for decision makers related to greenhouse gas regulation, alternative and renewable fuels, the development of regulatory carbon sequestration controls, and the intersection of climate change and natural resource issues including the National Environmental Policy Act and the Endangered Species Act. Recognized for his knowledge on legal approaches to addressing climate change, Mr. Martella focuses specifically on dissecting the extraordinarily complex and interrelated ramifications of climate change on numerous provisions of the Clean Air Act relating to mobile and stationary sources, as well as other laws, such as the ESA and NEPA. Mr. Martella's experience in this area enables him to work to forecast for clients the likelihood of upcoming regulations and controls in the area of climate change, clean energy, and sustainability, and to develop strategic approaches to be best prepared for such controls. Mr. Martella also focuses on international climate issues, working with Chinese institutes on climate and clean energy issues and advocating for conformity between United States climate rules with the European Union. Since the April 2007 *Massachusetts* decision, Mr. Martella has

ADMISSIONS & CERTIFICATIONS

- District of Columbia, 2009
- Maryland, 1997

EDUCATION

- Vanderbilt University Law School (J.D., 1995)
- Cornell University (B.S., 1992)

CLERKSHIPS

- David M. Ebel, U.S. Court of Appeals, 10th Circuit

INDUSTRIES

- Life Sciences

GLOBAL REACH

- Jurisdictions in which this lawyer is licensed to practice are listed under Admissions & Certifications.
- Canada

been invited to address climate change regulation more than twenty-five times in the United States and abroad.

In addition to climate change responsibilities, Mr. Martella focuses on the challenges in adapting existing and frequently outdated environmental law tools toward new and complex environmental challenges of national and international sustainability, including the increasing demands on industry to promote environmentally sustainable development protecting air, water, land, and human health.

Recognizing deficiencies in the China environmental law framework and the challenges for multinational organizations in understanding the laws on the books, Mr. Martella created the China Environmental Law Initiative in 2007. As part of the initiative, Mr. Martella created the only known website devoted to China environmental laws and organized with the State Environmental Protection Agency (now the Ministry of Environmental Protection) two separate symposia in China. Mr. Martella has served as a visiting professor at the Environmental Law Institute of Wuhan University and the State Environmental Protection Agency, and at Tsinghua University, working with academics, officials and students on developing environmental law frameworks for China. Mr. Martella has testified as an expert on this issue before the United States Congress, worked with numerous government officials at the national and provincial level in China, and has lectured with academics and students at leading universities and think tanks in both nations.

Prior to joining EPA, Mr. Martella most recently served as the Principal Counsel for Complex Litigation at the Justice Department's Natural Resources Section, where he focused on defending federal decisions relating to public lands, national forests, minerals, federal and tribal water rights and allocations, endangered species, NEPA, and Native American property and reservations. During nearly eight years at the Department of Justice, Mr. Martella maintained an unbroken record of successfully litigating every case he brought to court. His first chair trial responsibility included a 12 week jury trial that returned a \$36.9 million verdict, a seven week bench trial that resulted in a \$247.9 million judgment, an unbroken record of successfully defending against numerous emergency injunctions brought against timber and mining projects, and successfully defending the Secretary of Interior from a contempt motion at trial. Mr. Martella's responsibilities in the Natural Resources and the Indian Resources Sections related to federal land use decisions and policy; defense of federal statutes, regulations, and agency action under the APA, ESA, NEPA, and other statutes; competing assertions of jurisdiction and land use control among various government entities; federal programs relating to natural, cultural,

wildlife, and marine resources; pollution control issues under Clean Air Act, Clean Water Act, CERCLA, RCRA, TSCA, FIFRA, and EPCRA; and issues related to water, hunting, fishing, and treaty rights. Mr. Martella received among the highest honors at the Department of Justice including the John Marshall Award and the Assistant Attorney General's Excellence Award.

The 2013 edition of *Chambers* includes Mr. Martella in its top-tier of Washington, D.C.'s environmental lawyers, noting that "He is one of the next generation. He has a body of government experience and good insight, and is regarded as a credible person to represent industry people."

Mr. Martella is also recognized by the 2013 edition of *Chambers Global* for his International Climate Change work, he is ranked in the top-tier. The publication describes Mr. Martella as " 'A lightning rod for clients,' Roger Martella receives unanimous praise from sources. [] Described as 'superbly creative, capable and insightful,' he has been heavily involved in representing the interests of clients in a litigious context."

At the National Climate Change level Mr. Martella is also identified as a top-tier lawyer, he is described in the 2013 edition of *Chambers USA* as "The 'wonderful' Roger Martella is described as 'a really top-notch lawyer,' who is 'always trying to think of creative solutions.'"

Mr. Martella graduated from Vanderbilt Law School, where he was Editor in Chief of the *Vanderbilt Law Review*, and Cornell University, where he studied environmental science. Following law school, he clerked for the Hon. David M. Ebel of the Tenth Circuit Court of Appeals.

Mr. Martella, elected at large to the Warrenton, VA, Town Council, devotes significant effort to public service in his community and was recognized in 2006 as Citizen of the Year by the Fauquier County Board of Supervisors for his public service and volunteerism efforts.

Representative examples of Mr. Martella's recognitions and professional activities include:

- Ranked in *Chambers U.S.* and *Global* for Climate Change (Band 1 for U.S.) and Environment.
- *Law360*: Environmental MVP 2012.
- *Law360*: Rising Star (Environment).

- *International Who's Who of Environment Lawyers* (listed as one of 10 leading lawyers globally).
- *International Who's Who of Business Lawyers*.
- *Practical Law Company*: Environment (leading lawyer).
- Superlawyer: Environment.
- *Legal 500*: Environment.
- *Washington Business Journal*: Named one of D.C.'s top four environmental lawyers.
- Editor of upcoming American Bar Association book surveying global environmental law issues in more than 25 countries. Selected by the Federal Bar Association to author handbook for Article III judges on international environmental law.
- One of two private practitioners serving as advisor to the Rule of Law Initiative on international implementation of environmental laws.
- Chair, American Bar Association, Annual Spring Meeting (responsible for managing and leading the environment section's most important annual meeting).
- Chair, American Bar Association, International Environmental Law Committee.
- Vice Chair, American Bar Association, Air Quality Committee.
- Vice Chair, International Bar Association, Environment Committee.
- Council of Partners, Environmental Law Institute.
- Board Member, Chesapeake Legal Alliance.
- Expert, Energy and Environment Blog, National Journal.
- Attorney General's John Marshall Award for Preparation of Legislation (2003).
- Assistant Attorney General's Award for Excellence (2005).
- Federal Bar Association's Younger Lawyer Award (2003).

- Received Justice Department Special Achievement Award for each year of service.
 - Councilman At-Large, Town of Warrenton, VA (2006—present).
 - Fauquier County Citizen of the Year, Fauquier Board of Supervisors (2006).
 - Volunteer of the Year, Bluemont, The Cultural Spirit of Our Communities (2006, 2007).
 - Board Member, ex officio, National Trust for Historic Preservation (2005).
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PUBLICATIONS

- "Q&A With Sidley Austin's Roger Martella," *Law360*, (February 20, 2013)
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Memo

To: FWQC Members
Cc: B&T Water Team
From: Fredric P. Andes
Date: October 13, 2015
Re: Memo on WOTUS Litigation - and Court Ruling on Consolidating WOTUS District Court Cases

Per our discussions concerning the WOTUS Rule, we have prepared a memo regarding possible FWQC participation in the litigation challenging the Rule. The memo is attached. As discussed there, if we want to file a petition in court, then we need to do that by November 10. Therefore, **we need to know by no later than Tuesday, November 3 if your organization is interested in helping to fund that litigation effort, at a per-organization cost range of between \$5,000 and \$10,000 (depending on how many members decide to participate).** In the meantime, of course, please feel free to call or e-mail if you have any questions. Thanks.

P.S. Today, as another step in the continuing WOTUS litigation saga, the Judicial Panel on Multi-District Litigation ruled that the various District Court cases challenging the Rule will NOT be consolidated and transferred to the District Court in DC. A copy of the ruling is attached. The implications of this ruling are discussed in our attached litigation memo.

P.P.S. Here is a link to this note on the FWQC web site:
<http://fwqc.org/members/DocumentLibrary/Memo%20on%20WOTUS%20Litigation%20-%20and%20Court%20Ruling%20on%20Consolidating%20WOTUS%20District%20Court%20Cases.htm> .

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Memo

To: FWQC Members
Cc: B&T Water Team
From: Fredric P. Andes/Jeffrey S. Longsworth/Timothy Haley
Date: October 13, 2015
Re: Assessment of FWQC Participation in WOTUS Litigation

On June 29, 2015, EPA issued the final Waters of the United States ("WOTUS") rule in the Federal Register. Numerous suits have been filed raising legal challenges to the Rule. These suits raise serious issues concerning EPA's compliance with the Clean Water Act (CWA), the Administrative Procedure Act (APA), and the Constitution. Currently, the parties are engaged in arguments over which court or courts will hear the merits of the case and issue decisions. Ultimately, however that gets resolved, it is very likely that the challenges will be briefed and argued before the Supreme Court. That may take several years. In the meantime, the FWQC has been monitoring developments in the cases, but is not yet a formal party. The FWQC needs to decide if it wants to file a legal challenge, so that it can be fully informed of events in the litigation and participate as needed to ensure that its members' interests are fully protected.

This memorandum summarizes the status of the litigation and explains the process for the FWQC to get involved (including the costs involved), so the FWQC members can decide if the group should initiate a legal challenge. Such a challenge would need to be filed by November 10, 2015, so we need FWQC member organizations to let us know by October 30 if they would support FWQC participation in the litigation and would agree to contribute a cost share (as specified below) to funding the litigation efforts.

More than 20 suits have been filed challenging the WOTUS Rule, by States and regulated parties. The status of the suits is complicated, because the Clean Water Act does not give a clear answer as to where and when those suits should be heard. Under the Act, certain kinds of challenges to EPA actions must go directly to a Federal Court of Appeals (of which there are 12, for 11 Circuits around the country and the DC Circuit). Those challenges must be filed within 120 days after the

effective date of the rule – which, in this case, would be by November 10. If, on the other hand, the Rule does not fall within that class of cases, then challenges must instead be filed in a Federal District Court. For those challenges, the deadline for filing is 6 years after the agency action is effective – although one would probably not want to wait that long in this type of situation. In the case of the WOTUS Rule, it is simply not clear whether the Rule fits within the class of cases that must go to the Court of Appeals. EPA has taken the position that challenges to the Rule do need to go to the Court of Appeals, but others disagree. Ultimately, that issue will need to be resolved by a court. In the meantime, because of the uncertainty, most of the parties seeking to challenge the rule have filed actions in both a District Court and in a Court of Appeals, so they are in the case no matter where it ultimately is found to belong.

As to the cases that have been filed in Courts of Appeals, those have now all been consolidated in one court, the Sixth Circuit (in Cincinnati). That court has not yet decided if it has jurisdiction. However, pending that ruling, the Court just issued a stay of the Rule, which applies on a nationwide basis, so the Rule is currently not in effect. The duration of that stay is not yet clear, since if the Sixth Circuit eventually decides that it does NOT have jurisdiction, and rules that the District Court cases can proceed, then the Circuit's national stay will probably vanish. If, on the other hand, the Sixth Circuit retains jurisdiction, then its stay will remain in effect, and the Circuit will proceed to briefing of the merits, and a decision on the challenges – which will then likely go up to the Supreme Court.

As to the cases that have been filed in District Courts, the situation is a bit more complicated. Various District Court judges are proceeding to hear these cases. The Government has been trying to stop that process while the Sixth Circuit decides where jurisdiction lies, without much success so far. One of the Government's steps was to go before the Judicial Panel on Multi-District Litigation and ask that all of the District Court cases be consolidated and transferred to the District Court for D.C. That Government motion was opposed by the parties that are challenging the Rule. Today (October 13), the Panel ruled against the Government, holding that the cases will not be consolidated and moved to DC. Rather, the various District Court actions will proceed separately. The Panel apparently figures that those District Court cases will ultimately each go up to a Court of Appeals, and if the Courts of Appeals issue differing opinions as to the validity of the Rule, the Supreme Court can resolve the dispute – which will probably happen anyway. For now, the District Court actions are all separate. That may change if the Sixth Circuit rules that it has jurisdiction. In that case, the Circuit could rule that the District Court cases either have to be dismissed, or that they all have to be transferred to the Sixth Circuit.

So, things are a little up in the air as to which court will hear briefs on the merits as to the WOTUS Rule. In the meantime, we can consider what options the FWQC has as to getting involved in the litigation, and what the timelines are. The one timeline that is drawing to a close is the deadline for filing a petition in a Court of Appeals. That deadline is November 10. If the cases ultimately stay in the Sixth

Circuit, and if the FWQC wants to, at the point where merits briefing starts, be able to file a brief – or join the brief of another party – then it must file a petition by that date. Filing that petition is not difficult – the petition is one page. The process of filing, of course, involves a number of steps, and a few other papers, but it is still much less time-consuming than filing a challenge in District Court (which requires a full complaint).

So, what would the FWQC gain by filing a petition in the Sixth Circuit? As an initial matter, the FWQC would then be notified immediately when any filings or decisions occur in the Sixth Circuit cases. We would also then be able to confer directly with the various States and regulated parties that are involved in those cases, since we would have equal party status as all other petitioners. If there are settlement discussions, we would be able to participate. And assuming that the cases proceed to briefing in the Circuit, we could help shape the positions being taken in challenging the Rule – commenting on drafts prepared by other parties, and possibly drafting positions on issues of concern to our members, if we do not believe that the other parties will be raising those issues.

At this point, it is hard to tell whether the parties already in the litigation will be covering the issues of concern to the FWQC members. Based on input from members to date, those issues would include: (1) the scope of coverage for effluent ditches; (2) the application of the exemption for stormwater systems¹; (3) coverage of structures that are not located in “dry land”; and (4) application of the Rule to some wastewater treatment systems. The parties involved in the Court of Appeals cases have not yet had to list what issues they plan to brief. Those issues have been listed in the District Court cases; the total list of issues described in those complaints is long, and includes claims as to the validity of the Rule under the CWA, the APA, and the Constitution. Given the general nature of those claims at this point, it is not clear whether the issues of concern to the FWQC will be briefed, or if briefed, what priority those issues would have relative to other concerns about the Rule.

Given that current uncertainty over what issues will be briefed in the WOTUS cases, it is worth considering if there is a course of action that would allow the FWQC to get involved in the case and protect its interests if necessary, but also allow the group to stay out of the procedural fights – and to limit its involvement if it turns out that the issues of concern to its members are adequately addressed by other parties. Filing a petition in the Sixth Circuit would accomplish those goals. As noted above, filing that petition is accomplished fairly quickly, and once that is filed, the FWQC would immediately become a full party to the consolidated Court of Appeals cases. Filing a District Court case as well might be something that we would eventually want

¹ Note that the stormwater exemption matters both to stormwater dischargers with NPDES permits (industrial, construction or municipal) and to facilities that do not have their own stormwater permits but that send their stormwater to municipal separate storm sewer systems (MS4s). Additional regulation of MS4s, through application of the WOTUS Rule, will also mean additional regulation of the sources that send their stormwater to the MS4 systems.

to do – if the Sixth Circuit decides that it does not have jurisdiction – but that would be a much more time-intensive exercise, and there is no need to do that now. In the meantime, the FWQC would be a party in the Sixth Circuit, and when the cases proceed to briefing, it can shape its involvement depending on the situation. If it becomes clear that the other parties, including some who are devoting extensive resources to litigating the WOTUS Rule, will pay sufficient attention to key issues for the FWQC, then we could focus on reviewing draft briefs and submitting comments. If more is required, then we would be in a position to take a more active role.

So, what would it cost for the FWQC to file a challenge in the Sixth Circuit and participate in those cases as a party? Well, if we include the initial filing efforts, plus coordination with other parties once in the case, plus commenting on draft briefs as we proceed to the merits, then we believe that a budget of \$50,000 should be adequate. If it turns out that the FWQC needs to ramp up its involvement to a major extent, then there could be additional costs involved, and we might need additional funding, but we believe that such a major expansion of the FWQC work is unlikely. Using a budget of \$50,000, that amount could be covered if we have 10 FWQC members each contributing \$5,000 – or 5 members each contributing \$10,000. Based on those numbers, we would ask FWQC members to consider whether they would consider funding the litigation for a per-member cost share of between \$5,000 and \$10,000. Once we hear back from interested members, we would determine the exact per-member amount and issue invoices accordingly.

In order to file a challenge to the WOTUS Rule by November 10, we would like to hear back from members as to their interest in helping to fund the effort by no later than November 3. In the meantime, of course, please feel free to call or e-mail if you have any questions. Thanks.

**UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION**

**IN RE: CLEAN WATER RULE: DEFINITION OF
“WATERS OF THE UNITED STATES”**

MDL No. 2663

ORDER DENYING TRANSFER

Before the Panel: The federal government defendants¹ move under 28 U.S.C. § 1407 to centralize pretrial proceedings in this litigation in the District of District of Columbia. This litigation currently consists of nine actions pending in seven districts, as listed on Schedule A.² Several States (and the District of Columbia) have filed an interested party response in support of the motion to centralize these actions in the District of District of Columbia. All other responding parties—including plaintiffs in all nine actions and two interested parties—oppose centralization. Should the Panel centralize this litigation, the opposing parties variously suggest in the alternative that the Panel select the District of North Dakota, the Southern District of Georgia, and the Southern District of Texas as the transferee district for this litigation.

On the basis of the papers filed and hearing session held, we conclude that Section 1407 centralization will not serve the convenience of the parties and witnesses or further the just and efficient conduct of this litigation. These actions all involve challenges to a rule recently promulgated by the EPA and the Corps (the Clean Water Rule) that purports to interpret the jurisdictional phrase “waters of the United States” in the Clean Water Act. *See* 80 Fed. Reg. 37,054 (Jun. 29, 2015). The resolution of these actions will involve only very limited pretrial proceedings. Discovery, if any, will be minimal, as these cases will be decided on the administrative record. Motion practice will consist of motions regarding that record, motions for preliminary injunctive relief, and summary judgment motions. In short, these actions will turn on questions of law with respect to whether the EPA and the Corps exceeded their statutory and constitutional authority when

¹ The federal government defendants include the United States Environmental Protection Agency (EPA), the United States Army Corps of Engineers (the Corps), and, in their official capacities only: Gina McCarthy, the Administrator of the EPA; Jo-Ellen Darcy, the Assistant Secretary of the Army; Lieutenant General Thomas P. Bostick, the Chief of Engineers and Commanding General of the Corps; and John McHugh, Secretary of the Army.

² The Panel has been notified of five additional related actions pending in the District of Arizona, the Northern District of California, the District of District of Columbia, the Southern District of Texas, and the Western District of Washington.

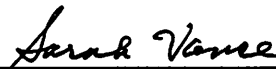
-2-

they promulgated the Clean Water Rule. Accordingly, centralization under Section 1407 is inappropriate. *See, e.g., In re Lesser Prairie-Chicken Endangered Species Act Litig.*, MDL No. 2629, __ F. Supp. 3d __, 2015 WL 3654675, at *1 (J.P.M.L. Jun. 9, 2015) (denying centralization of regulatory challenges that would be decided on the administrative record); *In re Envtl. Prot. Agency Pesticide Listing Confidentiality Litig.*, 434 F. Supp. 1235, 1236 (J.P.M.L. 1977) (same).

Additionally, centralization of these actions would be problematic due to their procedural posture. Several motions for preliminary injunctive relief already have been ruled upon, resulting in different jurisdictional rulings by the involved courts. Two courts have held that only the United States Courts of Appeals have jurisdiction over these regulatory challenges, whereas another reached the opposite conclusion, that jurisdiction over these actions properly resides in the United States District Courts.³ Centralization thus would require the transferee judge to navigate potentially uncharted waters with respect to law of the case. This procedural complication also weighs against centralization in this instance.

IT IS THEREFORE ORDERED that the motion for centralization of these actions is denied.

PANEL ON MULTIDISTRICT LITIGATION



Sarah S. Vance
Chair

Marjorie O. Rendell
Lewis A. Kaplan
R. David Proctor

Charles R. Breyer
Ellen Segal Huvelle
Catherine D. Perry

³ The Panel has been informed that, on October 9, 2015, the United States Court of Appeals for the Sixth Circuit stayed application of the Clean Water Rule on a nationwide basis pending further order of that court.

**IN RE: CLEAN WATER RULE: DEFINITION OF
“WATERS OF THE UNITED STATES”**

MDL No. 2663

SCHEDULE A

Northern District of Georgia

SOUTHEASTERN LEGAL FOUNDATION, INC., ET AL. v. UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY, ET AL., C.A. No. 1:15-02488

Southern District of Georgia

STATE OF GEORGIA, ET AL. v. MCCARTHY, ET AL., C.A. No. 2:15-00079

District of Minnesota

WASHINGTON CATTLEMEN'S ASSOCIATION, ET AL. v. UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY, ET AL., C.A. No. 0:15-03058

District of North Dakota

NORTH DAKOTA, ET AL. v. U.S. ENVIRONMENTAL PROTECTION AGENCY,
ET AL., C.A. No. 3:15-00059

Southern District of Ohio

STATE OF OHIO, ET AL. v. UNITED STATES ENVIRONMENTAL PROTECTION
AGENCY, ET AL., C.A. No. 2:15-02467

Northern District of Oklahoma

STATE OF OKLAHOMA v. UNITED STATES ENVIRONMENTAL PROTECTION
AGENCY, ET AL., C.A. No. 4:15-00381
CHAMBER OF COMMERCE OF THE UNITED STATES OF AMERICA, ET AL. v.
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, ET AL.,
C.A. No. 4:15-00386

Southern District of Texas

STATE OF TEXAS, ET AL. v. UNITED STATES ENVIRONMENTAL PROTECTION
AGENCY, ET AL., C.A. No. 3:15-00162
AMERICAN FARM BUREAU FEDERATION, ET AL. v. U.S. ENVIRONMENTAL
PROTECTION AGENCY, ET AL., C.A. No. 3:15-00165

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MEETING MINUTES
D05.15 METALLURGICAL PROPERTIES OF COAL AND COKE
Sheraton, Columbus, OH
Tuesday, May 12, 2015
08:00 AM

Sub Chairman: Eric Hatfield
Sub Secretary: Michael Carmon

1.0 Introduction

The meeting was called to order at 08:00 AM on Tuesday, May 12, 2015.

The meeting attendance list was distributed. The attending members and guests were asked to introduce themselves. There were a total of 15 members and 11 non-members present at the meeting.

The meeting agenda and previous meeting minutes were distributed.

Attendees were reminded that electronic recording of the meetings are prohibited.

2.0 Antitrust Statement

Attendees were encouraged to read the antitrust statement.

3.0 Agenda

Motion to approve the current meeting agenda was made and seconded by the attending members. The motion was carried.

4.0 Minutes

Motion to approve the recorded subcommittee minutes from the October 7, 2014 meeting in New Orleans, LA was made and seconded by the attending members. The motion was carried.

5.0 Membership Update

The current membership of D05.15 was shown as below:
Balance Report (As of 04/27/2015)
Producer Votes Available: 24

	Producer	User	Consumer	General Interest	Unclassified	Total
Official Voting Member	8	4	0	28	0	40
Non Official Voting Member	1	3	0	8	3	15
TOTAL	9	7	0	36	3	55

Eight (8) members have been removed since the last meeting. Six (6) new members have been added to the subcommittee.

6.0 **Ballot Results** (since last meeting)

a) *Main/Concurrent Items*

o **D05 (14-04)**

Ballot close date: 12-02-14

5 Items

ITEM 001

WK46983 REVISION of D720 Test Method for Free-Swelling Index of Coal

Revision to: Appendix

Technical Contact: Spong, Dave R

Ballot close date: 12-02-14

*** Item Approved ***

62 Aff 0 Neg 53 Abs

Negatives

*** None ***

Comments

Wilson, Daniel A

ITEM 002

WK28824 REVISION of D5263 Test Method for Determining the Relative Degree of Oxidation in Bituminous Coal by Alkali Extraction

Revision to: secs. 2.1 and 11

Technical Contact: Spong, Dave R

Ballot close date: 12-02-14

*** Item Approved ***

56 Aff 0 Neg 59 Abs

Negatives

*** None ***

Comments

Powers, Gregory K

ITEM 003

WK28824 REVISION of D5263 Test Method for Determining the Relative Degree of Oxidation in Bituminous Coal by Alkali Extraction

Revision to: Note 1

Technical Contact: Spong, Dave R

Ballot close date: 12-02-14

*** Item Approved ***

49 Aff 0 Neg 66 Abs

Negatives

*** None ***

Comments

De Vanney, Kevin F

ITEM 004

WK28824 REVISION of D5263 Test Method for Determining the Relative Degree of Oxidation in Bituminous Coal by Alkali Extraction

Revision to: Note following section 9.4

Technical Contact: Spong, Dave R

Ballot close date: 12-02-14

*** Item Approved ***

52 Aff 0 Neg 63 Abs

Negatives

*** None ***

Comments

Martin, Mitchell

Seaman, Allan R

ITEM 005 WK28824 REVISION of D5263 Test Method for Determining the Relative Degree of Oxidation in Bituminous Coal by Alkali Extraction

Revision to: section 9.10

Technical Contact: Spong, Dave R

Ballot tentative close date: 12-02-14

*** Item Approved ***

49 Aff 0 Neg 66 Abs

Negatives

*** None ***

Comments

*** None ***

o **D05 (14-05)**

Ballot close date: 01-28-15

1 Item

ITEM 001 WK28963 NEW STANDARD Test Method for Single-Stage Total Moisture in Coke

Technical Contact: Haven, Micheal S

Ballot close date: 01-28-15

63 Aff 1 Neg 54 Abs

Negatives *** Negative found Persuasive 05/07/15 – Ballot Withdrawn ***

Nadkarni, Kishore R A

Comments

Carmon, Michael D

Differding, Paul C

Huang, Tsung C

Seaman, Allan R

Vetter, Thomas W

Subcommittee Items

*** None ***

7.0 Outstanding Negatives (prior to previous meeting)

Main/Concurrent Items

*** None ***

Subcommittee Items

*** None ***

8.0 Standards Requiring Review

Standards with no ballot action are not published after 8 years.

- **D293-1993(2010)** Test Method for the Sieve Analysis of Coke
Status: Review for Ballot (Withdrawal Date 2019)
Reviewed Assigned
Technical Contact: Pike, Tommy
- **D2014-1997(2010)** Test Method for Expansion or Contraction of Coal by the Sole-Heated Oven
Status: Review for Ballot (Withdrawal Date 2019)
Reviewed Assigned
Technical Contact: Goodell, Adam
- **D3038-1993(2010)** Test Method for Drop Shatter Test for Coke
Status: Review for Ballot (Withdrawal Date 2019)
Reviewed Assigned
Work Item Registered: WK47442
Technical Contact: Pike, Tommy
- **D3402/D3402M-1993(2008)** Test Method For Tumbler Test for Coke
Status: Overdue (Withdrawal Date 2017)
Note: In the absence of other ballot action, Regulations require automatic ballot for withdrawal
Technical Contact: Spong, Dave R
Ballot D05 14-02 received three (3) negatives. Revised ballot submitted to D05.15
- **D5515-1997(2010)E1** Test Method for Determination of the Swelling Properties of Bituminous Coal Using a Dilatometer
Status: Review for Ballot (Withdrawal Date 2019)
Reviewed Assigned
Technical Contact: Carmon, Michael D.

9.0 New Standards and Reinstatement Work Items

- **Test for Cubic Foot Weight of Coke**
D292-1929(1978) *Withdrawn in 1985*
WK38671
Reinstatement Work Item
Technical Contact: Juedemann, Lorrie S.
See 11.0 Task Groups
- **Total Moisture in Coke**
WK28963
New Standard
Technical Contact: Haven, Micheal S
See 11.0 Task Groups

10.0 Work Items

- **WK42042 D3402/D3402M-1993(2008)** Tumbler Test for Coke
Technical Contact: Spong, Dave R
- **WK43642 D291-2007(2012)** Cubic Foot Weight of Crushed Bituminous Coal
Technical Contact: Pike, Tommy (*Ted Todoschuk*)

- o **WK47442 D3038-1993(2010)** Test Method for Drop Shatter Test for Coke
Technical Contact: Pike, Tommy
- o **WK49037 D2639/D2639M-2013** Plastic Properties of Coal by the Constant-Torque Gieseler Plastometer
Technical Contact: Carmon, Michael D
- o **WK28963 New Standard** Test Method for Single-Stage Total Moisture in Coke
Technical Contact: Haven, Micheal
- o **WK38671 D292-1929(1978)** Test For Cubic Foot Weight of Coke
Technical Contact: Juedemann, Lorrie S
- o **WK37676 D346/D346M-11** Standard Practice for Collection and Preparation of Coke Samples for Laboratory Analysis
Technical Contact: King, Victor H (Joint Work Item with D05.23)

11.0 Task Groups

Test for Cubic Foot Weight of Coke

WK38671

Withdrawn standard D292-1929(1978)

Task Group Chair: Juedemann, Lorrie S

Task group meeting was held at 11:00 AM on Monday, May 11, 2015. 13 attendees were present. A revised draft of the standard was presented to the task group for comments. A request was made for volunteers to assist in the revision.

Total Moisture in Coke

WK28963

New Standard

Task Group Chair: Micheal Haven

Task Group meeting was held at 11:00 am on Monday May 11, 2015. 16 attendees were present. The new Coke Moisture method had been submitted for consecutive balloting with D05. There was 1 negative and 5 comments received on the ballot. The negative was found persuasive and the ballot was withdrawn.

- There will be a temporary repeatability value produced from one lab in order to satisfy section A21.5.2 of the Blue Book.
- There were a number of other editorial changes, including:
 - o Changing the sample from "representative" to "gross".
 - o Adding a terminology section.
 - o Changing grams to g.
 - o Removing the second calculation listed, as it was identical to the first.
 - o Changing the term weight to mass.

After these changes have been made and the temporary repeatability is performed, the method will be re-balloted. After approval an ILS will need to be coordinated to generate a robust R and r statement for the method within 5 years.

Standard Practice for Collection and Preparation of Coke Samples for Laboratory Analysis (D346/D346M-11)

WK40989 Joint Work Item with D05.23

Task Group Chair: King, Victor H

Task group meeting was held at 1:00 PM on Monday, May 11, 2015. 18 attendees were present. During the prior meeting in New Orleans, the members had agreed that the most logical approach for the future

of the standard would be to adopt by normative reference ISO 13909 (Hard coal and coke -- Mechanical sampling), Sections 5 and 6 and ISO 18283 (Hard coal and coke -- Manual Sampling). Teams of 2 members each were assigned to review each of the three (3) standards for suitability to the US coke industry. Comments will be discussed at the next meeting in Tampa, FL.

12.0 Liaison Reports

None

13.0 Old Business

ASTM D2639/D2639M-2013, Plastic Properties of Coal by the Constant-Torque Gieseler Plastometer. Allan Seaman volunteered to poll D05.15 members to gather information concerning the actual procedures being used to dry and prepare the sample. The poll is in response to a prior negative received on Ballot D05 (13-03) concerning the requirement for air-drying the sample to a moisture loss of less than 0.1% per hour. Negative withdrawn 09/12/13.

ASTM D5341-1999(2010)E1, Test Method for Measuring Coke Reactivity Index (CRI) and Coke Strength After Reaction (CSR). The members of D.05.15 were polled in Jan 2015 to determine the exact practices and equipment being employed for the test as well as the extent to which certain language and requirements of the standard are being interpreted. A total of nine(9) participating labs responded. Confidential responses from the survey were presented to subcommittee for comment. Ted Todoschuk has asked to comment further on the results of the survey. Proposed revisions to the standard are planned to be discussed at the next meeting in Tampa, FL.

ASTM D3175-11, Standard Test Method for Volatile Matter in the Analysis Sample of Coal and Coke. Update on the question of revising Annex A1 to include coke. A question was raised at the New Orleans meeting concerning the required use of platinum crucibles for the determination of volatile matter in coke according to D3175, and as to the possibility of development of a procedure to allow for the determination of a relative bias between platinum and nickel-chromium crucibles. Lou Janke indicates that the current precision statements contained in D3175 for coke, derived from the COKESPEX program, were calculated employing data not exclusively from platinum crucibles. Of the participants involved in COKESPEX, some used platinum, some nickel-chromium, and some quartz or silica. Michael Carmon will coordinate with Lou as to revisions to the standard to allow the use of all three crucible types.

ASTM D5263, Test Method for Determining the Relative Degree of Oxidation in Bituminous Coal by Alkali Extraction. Question concerning the required use of Type II reagent water. Non-related comment received on Ballot D05 14.04. Doug Lowenhaupt indicates that Type II reagent water had not been included in the original writing or employed in the original ruggedness testing of the standard and had most likely been added in response to comments after balloting. Dave Spong will contact Greg Powers to discuss.

14.0 New Business / Committee Correspondence

The possible development of a new ASTM standard for the determination of the plastic properties of coal by the Sapozhnikov Plastometer was presented to the subcommittee by Dave Pearson at the New Orleans meeting. Permission for a new task group was given by the executive committee during the Columbus meeting and a group of 12 attendees were present at a 2:00 task group meeting. Dave Pearson was informed after conclusion of the meeting that a working draft standard will be presented at the upcoming ISO meeting in Williamsburg. In order to abide by our working agreement with ISO, the registered work item and task group have been withdrawn.

15.0 Administrative Deadlines

Minutes and all items for main committee ballot are due at Headquarters by 25 June. Sub and second Main Ballots are due at Headquarters 25 August.

16.0 Future Meetings

Event Name: US TAG ISO/TC on Solid Mineral Fuels

Dates: Sunday, September 20th 2015 - Friday, September 25th 2015

Location: Colonial Williamsburg Lodge; Williamsburg, VA US

Attending delegates must be selected by D05.27 (US TAG to ISO/TC27)

Event Name: October 2015 Committee Week

Dates: Sunday October 25th 2015 - Wednesday October 28th 2015

Location: Marriott Tampa Waterside Hotel; Tampa, FL

17.0 Meeting Adjournment

Motion was made to adjourn the meeting. Motion was seconded by the attending members and carried.

Submitted
June 17, 2015
Michael Carmon
D05.15 Secretary

ASTM D.05.15 COMMITTEE SURVEY ON CSR TESTING D5341-99

As a means to improve and standardize CSR Testing throughout the industry, a survey has been developed to gather information about the different variations of the testing process. Please take a few moments to answer the following questions:

1. How many pieces does it normally take to get a $200.0 \pm 1.0\text{g}$ sample?
2. Where is your thermocouple (T/C) guide attached?
3. What is the difference between the furnace temperature and the reactor temperature during the test?
4. What is your gas flow setting for CO_2 ?
5. What is the gas flow setting for N_2 ?
6. How are your gas flows measured – (Flow Meters or Mass Flow Controllers)?
7. If you use flow meters, have they been calibrated or adjusted for CO_2 gas versus air?
8. Do you demagnetize the $-3/8"$ material prior to tumbling the sample?
9. Does your T/C come in contact with the coke?
10. Does your set-up have the propensity to channel the gas up the sides of the reactor?
11. Do you try to center the T/C in the middle of the coke bed, if so how is this done?
12. What type of T/C do you use? (S,K,R,....)
13. Do your reactors have a tendency to flake off metal shavings?
14. If your centering guide is attached to the perforated plate, are the holes in the middle of the plate open so the gas can flow through the guide and around the T/C.
15. How are your centering pipe constructed and what material is used to make it?
16. How do you randomly choose the coke pieces?
17. Are flat pieces used in the sample for measuring CSR?
18. What equipment is used to crush your coke to the right size for CSR testing?
19. When the gases switch from N_2 to CO_2 during the test, what temperature change do you notice and how big is the change?
20. Do you check your vessels for leaks before each test?
21. What method do you use to control your process? (Duplicate Analysis or a Control Sample)
22. What is the standard deviation for your process?
23. If you use Duplicate Testing for process control, have you ever considered or tried running the same sample 10-15 times, and if so, what was the standard deviation of those runs?
24. What size fraction of coke do you use and crush down for CSR Testing?
25. Of the coke you receive for use in CSR Testing, what is the breakdown in size fractions? (%4", %3", %2", %1", %1/2", %1/4", %-1/4")
26. At what temperature is the reactor placed in the CSR furnace?
27. How long does it take to ramp up to 1100°C ?
28. When the test is complete, at what temperature is the N_2 disconnected from the reactor vessel?

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**MINUTES OF MEETING
ASTM D05 MAIN COMMITTEE
Sheraton Columbus at Capitol Square, Columbus, OH
Wednesday, May 13, 2015**

- 1. Call to Order**
 - The Chair of D05 called the meeting to order with the Secretary at 9:00 am.
 - The proxies were collected
 - There were 20 voting members present
 - A quorum was achieved (for 141 voting members)
 - Total attendance was 32 members and 2 guests

- 2. Review and Approval of Agenda**

The agenda was posted on the ASTM web site with copies available at the meeting. A motion was made and seconded to approve the agenda. The motion passed by voice vote

- 3. Announcements**
 - Activity fee is \$50 for members and \$45 for guests. This includes the D05 Tuesday luncheon, audio-visual aids for seminars and independent meetings, pays the cost of service awards and also supports ASTM D05 activities such as the D05 R.A. Glenn Award.
 - Proxy forms are available at the registration desk and were distributed with the agenda. Per ASTM rules a member can have only one proxy vote.

- 4. Review and Approval of Minutes**

A motion was made and seconded to approve the minutes from the October 8, 2014 meeting in New Orleans, LA. The motion passed by voice vote.

- 5. Acknowledgements**
 - The chair thanked Scott Orthey and ASTM support that contributed greatly to the success of this independent meeting.
 - The chair thanked the Coal Brothers band for their much appreciated entertainment Monday night and thanked Standard Labs for providing the refreshments.
 - Thanks to Freelin Wright for organizing the Tuesday afternoon tour of American Electric Power (AEP)'s Dolan Technology Center.
 - Congratulations to the Award of Merit winner Rich Wilburn.

- 6. The Numbers**
 - There were 74 people registered at the meeting.
 - There were 35 people at the Orientation/Chairmen's meeting Monday morning.
 - There were 58 at the Tuesday Luncheon.
 - There were 24 people present at the Seminar.

- 7. Due Dates**
 - Minutes and Main Committee ballots are due June 25, 2015.
 - Subcommittee ballots and second Main ballots are due August 25, 2015.

8. Future Meeting Sites

- 20-25 September 2015;** USTAG ISO/TC on Solid Mineral Fuels, Colonial Williamsburg Lodge, Williamsburg, VA
- 25-28 October 2015** Marriott Tampa Waterside, Tampa, FL, Committee Week
- 1-4 May 2016** Grand Hyatt, San Antonio, TX, Committee Week
- 23-26 October 2016,** Renaissance Orlando at SeaWorld, FL
- 7-10 May 2017** Sheraton, Toronto, ON, Committee Week
- 10-13 October 2017,** Sheraton New Orleans, LA, Committee Week (Wed to Fri)
- 20-25 May 2018** Sheraton San Diego
- 21-24 October 2018** Hilton Washington DC (not yet approved)
- 12-15 May 2019** Sheraton Denver CO

Canadian Holidays: Victoria Day is the Monday preceding May 25, Thanksgiving Day is the second Monday of October.

9. Subcommittee Reports

9.1. Actions on Standards

- The D05 Main meeting primarily deals with action items such as how negatives were dealt with on the ballots (withdrawn, non-persuasive, persuasive, not related, previously considered), the status of task groups and status of ballot items for the subcommittee.
- It is the responsibility of the subcommittee chair to inform the D05 Secretary and the executive committee of TG meeting room requirements so that room assignments can be assigned properly.

9.2. Subcommittee Chairs' Report of Activities

SC. 07 – Chuck Renner

D05.07 met May 12 at 1:30pm.

Chuck Renner appointed Mark Holderfield of Drummond Coal as SC. 07 secretary.

Chuck announced his plan to retire and his intention to recommend that the D5 Executive subcommittee appoint Allan Seaman as Sub 7 chairman.

There are no upcoming ballots anticipated.

All current TG's and time slots are good for the October meeting.

SC.15 – Eric Hatfield

D05.15 met May 12 at 8:00am.

There were 21 attendees present at the meeting; currently SC.15 has 55 members.

Need to retain the four current time blocks and request a fifth on Monday 2 pm for a new task group to write a new standard for the Sapozhnikov Plastometer.

Ballot D05 14-04 had 5 items with no negatives for revisions of D720 (Free-Swelling Index) and D5262 (Oxidation).

Ballot D05 14-05 had 1 item, a new standard for Single Stage Total Moisture in Coke with 1 negative which was found persuasive. The ballot is withdrawn and will be re-balloted at sub with the addition of a repeatability value for the crushed coke method.

There are upcoming subcommittee ballots on D3402 (Coke Tumbler) and Single Stage Total Moisture in Coke.

There are 5 D05-15 standards up for review, with 1 having an upcoming ballot item.

SC. 18 – Art Hoefft

D05.18 met May 12 at 1:30pm.

There are no action items or changes to Task Groups.

Expect 4 concurrent ballot items before next meeting: 2 for changes to D388-12 (Coal Rank) and 2 re-approvals

SC.21 – Jay Albert

The D05.21 Subcommittee met immediately prior to the D05 meeting with 22 present. Since the last meeting there were numerous ballots but no action items for D05 Main. Two concurrent ballots are requested before the next meeting (new practice for Water Soluble Alkalis in Coal, revision of D1412 Equilibrium Moisture).

SC.23 – Bill Strang

D05.23 met May 12 at 9:00am.

There are no action items. All ballot items with negatives have been withdrawn.

Ballot activity is expected before the next meeting on D7430 (Mechanical Sampling of Coal Part A (8 SC and 1 concurrent), Part D (1 SC) and Appendix 1 (1 concurrent).

2 SC ballot items are also expected on D6543 On-Line Coal Analyzers.

SC.24 – Paul Differding

D05.24 met May 12 at 1:30am with 3 members and 2 visitors present.

The subcommittee has no task groups.

Since the last meeting there were 2 SC ballots:

- Revision of D121 Standard Terminology received no negatives, so proceed to Main
- Revision of D7448 Establishing Laboratory Competence received 2 negatives. The ballot will be withdrawn, re-worked then re-balloted at SC.

SC.27 – Kelly Olenyik for Paul Regan

D05.27 met May 12 at 10:30 with 19 members and 8 interested parties in attendance.

The subcommittee has no task groups or ballot items.

The liaison report, since this subcommittee serves as the US TAG ISO/TC on Solid Mineral Fuels, focused on the Twenty Fifth Plenary Meeting of ISO/TC on Solid Mineral Fuels, to be hosted by the US in Williamsburg, VA, 9/20-9/25/15. The official invitation and registration information is expected to be sent out within the next few weeks. D05 members interested in attending the ISO meeting as an official delegate or as an observer are asked to notify D05.27 Chair, Paul Regan, of their interest prior to signing up. Fundraising for the meeting continues, those able to contribute are asked to contact Paul Regan. D05 members interested in reviewing ISO TC 27 standards as they come up for ballot are asked to contact D05.27 secretary, Kelly Olenyik.

SC. 28 – Eric Hatfield for Paul Hackley.

D05.28 met May 11 with 16 members and guest attendees. Primary discussion centered on a recent subcommittee ballot for a new draft standard: Test method for reflectance of coke. The subcommittee ballot received several negative votes. The draft standard will be withdrawn, updated, and circulated to subcommittee members prior to re-balloting.

Negative votes to coke preparation practice D3997 also were addressed. D3997 ballots will be withdrawn, updated and re-circulated to the subcommittee prior to re-ballot. The subcommittee also discussed updates for coal etching practice D5671 and decided to ballot the updates less a series of photographs that cannot be reproduced in the printed ASTM book of Standards. Coke textures test method D5061 will be balloted for re-approval following addition of a repeatability statement. A recent subcommittee survey considering removal of the more complex maceral classification from D2799 received several comments warranting formation of a task group to consider how to update the

standard. New business included remarks about vitrinite reflectance test method D2798 and calibration using CCD cameras98.

SC. 29 – Dave Spong

D05.29 met May 12 at 9:00 am with 14 members and 4 visitors present. Since the last meeting there was 1 concurrent ballot for re-approval of D6721 Chlorine in Coal by Oxidative Hydrolysis with no negatives, no comments. Before the next meeting a ballot is planned for re-approval of D4606 Arsenic and Selenium in Coal by Hydride Generation/AA.

Two new task group time slots will be required for the next meeting:

- Task Group for revision of D6357 Trace Elements by ICP-AES and ICP-MS as performance based standard to allow for additional elements with Monty Ellis as Chair
- Task Group for new test method for Fluorine and Chlorine in Coal by Bomb Calorimeter, Ion Chromatography with Angela Hart and Colin Campbell as co-chairs

10. Nominating Committee Report.

Henry J. Albert was appointed as the chair of the Nominating Committee by the Executive Subcommittee. The committee is composed of the Chairmen of the Technical Subcommittees. The committee is charged with presenting a slate of officers at the May 2015 D05 Main Committee Meeting. Consenting nominees are required for each office (Chairman, Vice-Chairman, Secretary, and Membership Secretary, and at least five Members-at-Large for the Executive Subcommittee). For more details refer to the D05 By-Laws available under Committee Documents for D05 on the ASTM web site. The following slate of candidates was presented. There were no nominations from the floor.

	2016-17	D05 Classification
Chairman	Paul Differding	General Interest
Vice-Chairman	Dave Spong	User
Secretary	Henry Albert	General Interest
Membership Secretary	Freelin Wright	User
Member-At-Large	Colin Campbell	User
Member-At-Large	Victor King	Producer
Member-At-Large	Kelly Olenyik	General Interest
Member-At-Large	Micheal Haven	General Interest
Member-At-Large	Robert Gossett	Producer

11. Old Business

None.

12. New Business

None.

13. Adjournment of Main Meeting

Move to adjourn at 10:15 was made and seconded. The motion was passed by voice vote.