

STEVEN L. BESHEAR  
GOVERNOR



LEONARD K. PETERS  
SECRETARY

COMMONWEALTH OF KENTUCKY  
ENERGY AND ENVIRONMENT CABINET

MINE SAFETY REVIEW COMMISSION  
132 BRIGHTON PARK BLVD.  
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COMMISSIONERS

WILLIAM D. DONAN, CHAIR  
J. DUNCAN PITCHFORD  
DAVID BRIAN SLOAN

**MINE SAFETY REVIEW COMMISSION  
MINUTES**

MINUTES OF THE REGULAR MEETING OF DECEMBER 12, 2013: A MEETING OF THE MINE SAFETY REVIEW COMMISSION (HEREINAFTER "MSRC" OR "COMMISSION") WAS HELD IN THE CONFERENCE AND HEARING ROOM OF THE COMMISSION LOCATED AT 132 BRIGHTON PARK BLVD., FRANKFORT KY.

- ❑ **Members Present:**, Commissioner J. Duncan Pitchford and Commissioner David B. Sloan were present. The Chair and Commissioner William D. Donan could not attend. Also in attendance MSRC Hearing Officer and General Counsel Bryon Alan Thompson.
- ❑ The meeting was **called to order** at 9:00 a.m. EST
- ❑ **Declaration of a Quorum:** Upon the call of the meeting, Commissioner Pitchford made a motion that a quorum was present, which was seconded as appropriate. The motion carried unanimously.
- ❑ **Welcome Guests:** Energy and Environment Cabinet Executive Director Mike Haines was present. Additionally General Counsel staff attorneys for OGC were present; Ottley, Girard, Smock, Patrick and Russell who were representing the Office of Mine Safety and Licensing. The Office of General Counsel was assisted by Kari Sutherland. OMSL was represented by Amy Hislope.
- ❑ The **minutes** for the meeting on **11/14/13** were discussed. Commissioner Donan made a motion for approval, which was seconded. The motion carried unanimously, and was ratified by the Chair.

- **OMSL Motions for Sanctions, Permanent or one (1) year Revocation for failure to comply with terms of the Settlement Agreement & Final Order by MSRC resolving KRS 351.120(12) workplace suspension for alcohol and substance abuse:**

  - *None submitted for this meeting.*
  
- **KRS 351.120(12) Petitions heard regarding miner appeals of workplace suspension for alcohol and substance abuse – revocations:**

  - 13-MSRC-032 Jeff Vincent was called upon his motion to reconsider and he failed to appear or participate. Thus his motion was denied and the prior revocation remains in force.
  
  - 13-MSRC-126 Leonard Doug Nantz was called for a hearing. He was under a Show Cause Order to appear at this meeting and he failed to appear, defend or participate in the hearing he requested. Thus OMSL moved to **revoke** for no less than 3 years. A motion was made to grant, which was seconded as appropriate. The motion carried unanimously, and was ratified.
  
  - 13-MSRC-137 Oscar P. Bowling and 13-MSRC-140 Jesse R. Williams, appeared and requested a settlement agreement. OMSL did not oppose a **settlement** agreement that provided for testing and an evaluation. A motion was made to grant, which was seconded as appropriate. The motion carried unanimously, and was ratified.
  
  - 13-MSRC-149 Timothy P. Christopher and 13-MSRC-157 Steve R. Conrad were called and they failed to appear, defend or participate. OMSL moved to **Show Cause** to January 9, 2014. The motion carried unanimously upon vote of the remaining two Commissioners, and was ratified by the Chair.
  
  - 13-MSRC-119 James N. Blankenship appeared and requested a **hearing**. After taking testimony from him and OMSL regarding the suspension the Commission determined that there were substantive facts in question and thus a formal evidentiary hearing with witnesses from both parties would be required. Commissioner Sloan informed Blankenship that he had an apparent conflict of interest; however Blankenship waived that for today's hearing. This matter was **continued** to January 9, 2014.
  
  - 13-MSRC-158 Shannon Fox was called. OMSL informed the Commission that the basis for the suspension was in error and thus DNR rescinded the suspension. MSRC took no action on this matter.

**9:00 a.m. failed to appeal or chose drug treatment cases – “new law” 3 year revocation**

- 13-MSRC-117 Robert Bolen, 13-MSRC-094 Michael Bowling, 13-MSRC-160 Ryan Kilmer, 13-MSRC-161 Dennis Minton, 13-MSRC-162 Ralph Frampton, 13-MSRC-163 Eric Hines, 13-MSRC-165 Samuel Barker and 13-MSRC-166 Dustin Hurley failed to appear, defend or participate upon the call of each of their cases. OMSL requested a **3 year revocation**. A motion was made to grant, which was seconded as appropriate. The motion carried unanimously, and was ratified by the Chair.

**9:00 a.m. completed treatment & clean test drug cases, reinstate**

- 13-MSRC-164 William Pate demonstrated that he completed counseling and had a clean drug test and moved to be **reinstated**. A motion was made to grant, which was seconded as appropriate. The motion carried unanimously, and was ratified by the Chair.

**Petition for Order in roof control violation**

- *None submitted for this meeting.*

**The Docket for “traditional” type cases:**

- 12-MSRC-105 Napier & Sizemore were called and counsel requested a **continuance** to February 13, 2014 for settlement in regard to Napier. Sizemore indicated that he no longer contested the matter and the prior default order was reinstated. A motion was made to grant, which was seconded as appropriate. The motion carried unanimously, and was ratified by the Chair.
- 13-MSRC-072 Donnie Meade & Randy Shortridge, 13-MSRC-073 Wagner & Wagner, and 10-MSRC-193 Lone Mountain, settlement were called and counsel requested a **continuance** to January 9, 2014 for purposes of settlement. A motion was made to grant, which was seconded as appropriate. The motion carried unanimously, and was ratified by the Chair.

**Old Business**

□ **Ratification of Final Order:**

- None submitted for this meeting.

□ **Appeals**

The Commission discussed the status of the appeal to Franklin Circuit Court of the Final Order in 07-MSRC-088 **Jerry J. Maggard**, et al. Hon. Smock, counsel for OMSL stated the matter has been **submitted** for a ruling. 07-MSRC-100 **Hendrickson Equipment** & James Hylton is submitted for a ruling.

## **New Business**

### **□ Office & Administrative;**

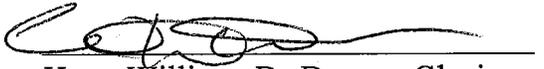
- The General Counsel advised that the **mileage** is forty six (46) cents per mile.
- **Training:** Commissioner Pitchford stated that he was relocating out of state and that January would be his last meeting. Previously the statutorily required mine site visits were tentatively scheduled for January, however that training would be more cost effective if the new Commissioner were present.
- **Required Hearing Officer Training:** Next required Hearing Officer Training is on **June, 2014** at the KY History Center and in **March 2014** for Commissioner Sloan and the new appointment.
- **Executive Session:** The Commission adjourned to conduct an Executive session to discuss the motions & settlements in the cases as above and then reconvened to issue its determinations.
- **Probable Cause Determinations**
  - None submitted for this meeting.
- **Settlement Agreements**

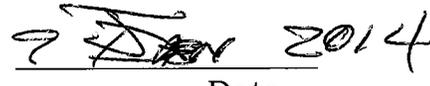
The Settlement Agreements were managed as indicated above in the Motions and suspensions sections.
- **The Time Memo and Travel Vouchers** were signed and submitted for payment by the General Counsel.
- **NEXT MEETING:** The Commissioners acknowledged that MSRC is regularly scheduled for a regular two day meeting on Starting on **Thursday January 9, 2014**.

- **Adjournment:** Commissioner Pitchford made a motion to adjourn, which was seconded and the motion carried unanimously, and was so Ordered.

The next meeting of the Mine Safety Review Commission will be held on Thursday January 9, 2014. The meeting will be held in the conference and hearing room of the Commission located at 132 Brighton Park Blvd., Frankfort KY.

Approved:

  
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Hon. William D. Donan Chair  
Mine Safety Review Commission

  
\_\_\_\_\_  
Date