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SECRETARY

COMMONWEALTH OF KENTUCKY
ENERGY AND ENVIRONMENT CABINET

MINE SAFETY REVIEW COMMISSION
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**MINE SAFETY REVIEW COMMISSION
MINUTES**

MINUTES OF THE REGULAR MEETING OF FEBRUARY 13, 2014: 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 David B. Sloan and the Chair and Commissioner William D. Donan attended. 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 Sloan 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, Slayton 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 **1/9/14** 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 three (3) 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:**

- 12-MSRC-038 Alexander Skeens was called and did not appear. OMSL moved for a **1 year revocation**. The motion was made, seconded and approved unanimously.
- 12-MSRC-054 Mark D. Wilson was called. OMSL moved for a **permanent revocation**. The motion was made, seconded and approved unanimously.

□ **KRS 351.120(12) Petitions heard regarding miner appeals of workplace suspension for alcohol and substance abuse – revocations:**

- 13-MSRC-159 Scotty Quinn and 13-MSRC-170 Tristan Berryman were called for a hearing. They were under a Show Cause Order to appear at this meeting and they failed to appear, defend or participate in the hearing they 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-172 Jeff Willis appeared and requested a hearing however he admitted to the violation. OMSL did not oppose a **Order** 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.
- 14-MSRC-001 Stanley Wilson and 14-MSRC-002 Michael Fuson were **continued** to April 10 because of the extreme icy conditions in eastern Kentucky and the civil authorities asking that travel be deferred. A motion was made to grant, which was seconded as appropriate. The motion carried unanimously, and was ratified.

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

- 14-MSRC-004 Robert Adams, 14-MSRC-006 Cody Bland, 14-MSRC-007 Henry Litton, 14-MSRC-010 Damian Croft and 14-MSRC-017 Justin Piper 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

- 14-MSRC-003 David Kizer, 14-MSRC-005 Peter Hoynack, 14-MSRC-011 Jeremy Darr and 14-MSRC-016 Larry Haire demonstrated that they 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

Non-licensed facility drug cases

- None submitted for this meeting.

The Docket for “traditional” type cases:

- 10-MSRC-193 Lone Mountain and 13-MSRC-086 Andrew Johnson were both called in turn and OMSL presented a **settlement** and moved for approval. The motion carried and was granted unanimously.
- 12-MSRC-105 Napier and 13-MSRC-073 Wagner & Wagner were called and counsel requested a **continuance** to April 10 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:

- 13-MSRC-071 Jones & Stacey Final Order was ratified.

□ 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 five (45) cents per mile.
- **Training:** 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 13, 2014** at the KY History Center.
- **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**
 - 14-MSRC-008 Lester, Stephens & Watts, 14-MSRC-009 Jason K. Bevens, 14-MSRC-012 Teddy Smith, 14-MSRC-013 Chadwick S. Sifers, 14-MSRC-014 Otis Anderson and 14-MSRC-015 Carl McIntosh were each called in turn for a probable cause determination. That determination was made after each were reviewed and the matters were set for hearings.

□ **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 April 10, 2014.**
- **Adjournment:** Commissioner Sloan 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 April 10, 2014. The meeting will be held in the conference and hearing room of the Commission located at 132 Brighton Park Blvd., Frankfort KY.

Approved:



Hon. William D. Donan Chair
Mine Safety Review Commission

4/10/14
Date