

STEVEN L. BESHEAR  
GOVERNOR



LEONARD K. PETERS  
SECRETARY

COMMONWEALTH OF KENTUCKY  
ENERGY AND ENVIRONMENT CABINET

MINE SAFETY REVIEW COMMISSION  
132 BRIGHTON PARK BLVD.  
FRANKFORT, KENTUCKY 40601  
TELEPHONE: (502) 573 - 0316  
FAX: (502) 573-0344

COMMISSIONERS

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

BRYON ALAN THOMPSON  
GENERAL COUNSEL

**MINE SAFETY REVIEW COMMISSION  
MINUTES**

MINUTES OF THE REGULAR MEETING OF FEBRUARY 14, 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:** The Chair and Commissioner William D. Donan, J. Duncan Pitchford and Commissioner David B. Sloan were present. 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 Donan made a motion that a quorum was present, which was seconded as appropriate. The motion carried unanimously, and was ratified by the Chair.
- **Welcome Guests:** Hon. Mike Haines, Energy and Environment Cabinet General Counsel were present and also staff attorneys for OGC; Ottley, Huffman, Long, 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, Mary McCoy, and Tara New.
- The **minutes** for the meeting on **1/10/13** 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:**

Each of the following cases were called in turn: 11-MSRC-005 Mitchell T. Risner, 11-MSRC-089 Scotty Collins, 11-MSRC-161 Travis Brock and 11-MSRC-238 Timothy D. Mitchell and no one appeared or participated. OMSL by counsel moved to **permanently revoke** each of them based upon their failure to submit the drug tests in their agreement or the failure of drug tests. A motion was made to **grant**, each of their settlements which were seconded as appropriate. The motions carried unanimously, and were ratified by the Chair.

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

- 12-MSRC-214 Trichell Chapman and 12-MSRC-215 Brandon Bates were called in turn. Each appeared and requested a **settlement**. A motion was made to **grant**, which was seconded as appropriate. The motion carried unanimously, and was ratified by the Chair.
- 12-MSRC-213 Jimmy Rose was called and prior to this meeting had requested a **continuance** to allow his attorney to prepare his defense. A motion was made to **grant**, which was seconded as appropriate. The motion carried unanimously, and was ratified by the Chair.
- 11-MSRC-253 Ryan B. Ratliff, 12-MSRC-072 Randal A. Snyder and 13-MSRC-001 Darrell Griffith were called and did not appear. OMSL moved to **Show Cause**. A motion was made to **grant**, which was seconded as appropriate. The motion carried unanimously, and was ratified by the Chair.
- 13-MSRC-002 Lark Muncy (“new law”) was called in turn regarding a Show Cause issued at the last meeting for his failure to appear or participate in the hearing he requested. No one appeared at this meeting, thus OMSL moved for **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. failed to appeal or chose drug treatment cases – “new law” 3 year revocation**

- 13-MSRC-005 Frank J. Allen, 13-MSRC-006 Billy S. Branham, 13-MSRC-007 John T. Messamore, 13-MSRC-008 Travis Fields, 13-MSRC-009 Bradley McPeck, 13-MSRC-010 Phillip Hinchee, 13-MSRC-013 James Hunter and 13-MSRC-014 Brittany McDonald were each called in turn. They did not appear or participate in any way and thus OMSL moved for 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.
- 13-MSRC-003 Levi Cox was called and requested a **continuance** to March 14 to prepare his case or consider settlement. A motion was made to **grant**, which was seconded as appropriate. The motion carried unanimously, and was ratified by the Chair

**11:00 a.m. completed treatment & clean test drug cases, reinstate**

- 13-MSRC-004 Lamont Drake and 13-MSRC-011 Timothy Bowling were called and OMSL moved to **reinstate**. A motion was made to **grant**, which was seconded as appropriate. The motion carried unanimously, and was ratified by the Chair.

**The 11:00 a.m. Docket for Reciprocity actions regarding Virginia Drug Sanctions:**

- None submitted for this meeting

**The 11:00 a.m. Docket for Petition for Roof Control Violation Orders:**

- None submitted for this meeting.

**The 11:00 a.m. Docket for Motions to Modify prior Orders:**

- None submitted for this meeting.

**11:00 a.m. Appeal of Penalty Assessment**

- None submitted for this meeting.

**The 11:00 a.m. Docket for “traditional” type cases:**

- 10-MSRC-018 ICG Knot County, was called and OMSL presented a **settlement**. A motion was made to **grant**, which was seconded as appropriate. The motion carried unanimously, and was ratified by the Chair.
- 12-MSRC-154 Norris, Massingale, Miniard, Davis, Stanton, Cox, Bailey & Caudill, was called and **continued** to March 14 for a pending settlement. A motion was made to **grant**, which was seconded as appropriate. The motion carried unanimously, and was ratified by the Chair.
- 12-MSRC-103 Audy Stewart, was called and **continued** to March 14 for a pending settlement. A motion was made to **grant**, which was seconded as appropriate. The motion carried unanimously, and was ratified by the Chair.

**The 1:00 p.m. Docket for “traditional” type cases:**

- None submitted for this meeting.

**Old Business**

□ **Ratification of Final Order:**

*None submitted for this meeting.*

□ **Administrative Hearings Update;**

The Commission discussed briefly the pending number of cases set for the next meeting and the possibility of one “traditional” type hearing.

□ **Status Report & Abeyances;**

*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 being briefed.

**New Business**

□ **Office & Administrative;**

- The General Counsel advised that the **mileage** decreased to forty five (45) cents per mile.

□ **Training**

- **Required Hearing Officer Training:** Next required Hearing Officer Training is on **June 2013** 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**

*None submitted for this meeting.*

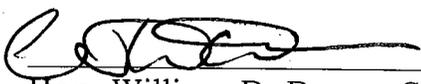
□ **Settlement Agreements**

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 March 14, 2013.**
- **Adjournment:** Commissioner and Chair Donan 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 March 14, 2013. 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

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Date