

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

BRYON ALAN THOMPSON  
GENERAL COUNSEL

COMMISSIONERS

WILLIAM D. DONAN, CHAIR  
DAVID BRIAN SLOAN  
W. BRYAN HUBBARD

**MINE SAFETY REVIEW COMMISSION  
MINUTES**

Minutes of the regular meeting of **July 10, 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 the Office of General Counsel staff attorneys were present; Ottley, Girard, Smock, Slayton and Russell who were representing the Division of Mine Safety. The OGC was assisted by Kari Sutherland.
- The **minutes** for the meeting on **6/12/14** 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:**

- *None submitted for this meeting.*

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

- *None submitted for this meeting.*

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

- 14-MSRC-076 Larry J. Blair appeared and requested a re-hearing and a **reinstatement** based upon his completion of therapy. A motion was made to grant contingent upon submittal of the required clean drug test which was seconded as appropriate. The motion carried unanimously, and was ratified by the Chair. Subsequent to the meeting Blair submitted the clean test and was reissued his certifications.
- 14-MSRC-079 Christopher Bales, 14-MSRC-080 Hollis L. Mounts, 14-MSRC-081 Timothy D. Collier, 14-MSRC-082 Jose Calix-Truchez, 14-MSRC-083 Reuben Holloway, 14-MSRC-084 Thomas Heatwole, 14-MSRC-089 John Mullins, 14-MSRC-090 Phillip M. Clark, 5 yrs 2nd offense, 14-MSRC-091 Gary Nantz, 14-MSRC-092 Scott T. Brooks, 5 yrs 2nd offense former 12-MSRC-188 Non-Licensed facility wherein he did not finish testing, 14-MSRC-093 Bradley P. Loyd, and 14-MSRC-094 Alan Waddington, failed to appear, defend or participate upon the call of each of their cases. OMSL requested a **3 year revocation** except where otherwise noted for 5 years for second offenses. 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-085 Kenneth Jones demonstrated completion of counseling and gave a clean drug test and moved to be **reinstated**. A motion was made by OGC 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:**

- 13-MSRC-080 Tram Energy was called for settlement of **Neil Martin** which was granted. The Respondent agreed to stipulate to the admissibility and foundation of the violations as to Johnson and the hearing for him was set for September 11.
- 13-MSRC-121 K& D mining was called to vacate an order from June defaulting Jamie Johnson and to enter a settlement which was granted.
- 14-MSRC-078 Morton & Burcham, OGC made a motion dismiss Morton because of a prior settlement which was granted.

## **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. **13-MSRC-080 Ousley/Tram** was filed but the parties are discussing settlement.

## **New Business**

### **☐ Office & Administrative;**

- ☐ The General Counsel advised that the **mileage** is forty eight (48) cents per mile until September.
- ☐ **Training:** The statutorily required mine site visits were postponed until the Commissioner Hubbard is available.

- **Required Hearing Officer Training:** Next required Hearing Officer Training is in June 2015 at the KY History Center. Initial Hearing Officer Training is in March 2015 for Commissioner Hubbard.
- **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**
  - Probable cause was found in 14-MSRC-088 Brennan D. Mathis & Ken A. Coburn.

□ **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 August 14, 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 August 14, 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

14 Aug 2014.  
Date