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COMMONWEALTH OF KENTUCKY
ENERGY AND ENVIRONMENT CABINET

MINE SAFETY REVIEW COMMISSION
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COMMISSIONERS

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

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**MINE SAFETY REVIEW COMMISSION
MINUTES**

MINUTES OF THE REGULAR MEETING OF JUNE 13, 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 Lewis. New OGC staff attorney Kari Slayton was introduced.
- ❑ The **minutes** for the meeting on **5/09/13** 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:**

- 12-MSRC-050 Wamon K. Mason was called and did not appear. OMSL moved to permanently revoke his certifications for submitting a positive test taken pursuant to the terms of his settlement. The motion was seconded and passed unanimously.

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

- 13-MSRC-039 Joshua E. Slaton was called and he did not appear. OMSL moved to **revoke**. A motion was made to grant, which was seconded as appropriate. The motion carried unanimously, and was ratified by the Chair.
- 13-MSRC-041 Danny W. Brown appeared and demonstrated that the prior suspension was in error and moved to have his appeal **sustained**. A motion was made to grant, which was seconded as appropriate. The motion carried unanimously, and was ratified by the Chair.
- 13-MSRC-046 Leland Walker was called and did not appear. OMSL moved for a **show cause**. A motion was made to grant, which was seconded as appropriate. The motion carried unanimously, and was ratified by the Chair.
- 12-MSRC-215 Brandon Bates was called and requested a **settlement** agreement. 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-054 Joshua L Profit, 13-MSRC-056 Lee Zane Barron, 13-MSRC-059 Adam Rohr, 13-MSRC-060 Grady Helm and 13-MSRC-062 Jeffrey Knowlton 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.

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

- 13-MSRC-053 Seth Cardwell, 13-MSRC-055 Ryan Campbell, 13-MSRC-057 Mark Alvey, 13-MSRC-058 Dennis Patterson and 13-MSRC-061 Joel Martin 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.

The Docket for “traditional” type cases:

- 11-MSRC-081 Timothy A. Hurd, was called and no one appeared. OMSL moved for **default**. A motion was made to grant, which was seconded as appropriate. The motion carried unanimously, and was ratified by the Chair.
- 12-MSRC-188 Scott T Brooks, requested **settlement**. A motion was made to grant, which was seconded as appropriate. The motion carried unanimously, and was ratified by the Chair.
- 10-MSRC-193 Lone Mountain was called and the Commission was informed that it would be a settlement and requested that it be **continued to July 11**. A motion was made to grant, which was seconded as appropriate. The motion carried unanimously, and was ratified by the Chair.
- 10-123 Combs, Dishner & Cumberland River Coal, was called for a **status report** only. Both parties indicate settlement is being circulated for signature.

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** remains forty seven (47) cents per mile.

□ **Training**

- **Required Hearing Officer Training:** Next required Hearing Officer Training is on **June 21, 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**

Probable cause was found for 13-MSRC-044 Verlin L. Perkins and 13-MSRC-052 Jeffery Sizemore.

□ **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 July 11, 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 July 11, 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

18 July 13
Date