

MINUTES

COAL SURFACE MINING RECLAMATION FUND ADVISORY BOARD

Conference Room 211

September 01, 2016

02:00 p.m.

Present

Gavin Bledsoe
Randy Casey
John Paul Jones
(Via Teleconference)
Butch Lambert
Chris Stanley
Donna Stanley

Also Present

Greg Baker
Matt Hepler, Southern Appalachian Mountain Stewards
Becky Sanders

A meeting of the Coal Surface Mining Reclamation Fund Advisory Board was held on September 01, 2016 at 2:00 p.m. at the Department of Mines, Minerals and Energy (DMME) Office in Big Stone Gap.

Randy Casey opened the meeting. Mr. Casey welcomed everyone and asked for a self-introduction. Mr. Casey distributed Certificates of Appreciation from Governor McAuliffe to the new Board members. The new Board members will serve a five year term.

A nomination was made for Chris Stanley to serve as the Board Chairperson. The Board unanimously approved the nomination.

Status of Pool Bond Fund

Greg Baker reported there are 170 permits in the Pool Bond Fund for a total of \$139,991,600.00 in bond for the Pool Bond permits. Currently, there is \$7.9 million in the Pool Bond Fund. That is a \$74,000 increase from July 1, 2014 – June 30, 2015 and \$268,000 from July 1, 2015 through June 30, 2016. The permitted acreage by the pool bonding permits totaled 60,641 acres.

For the benefit of new Board members, Mr. Baker explained the operation of the Pool Bond Fund. If a company does not fulfill its reclamation obligations, DMME has the option of taking bond money the company paid for entry into the Pool Bond Fund and using it to reclaim the site. There have been two bond forfeitures in the past 15 years. There is one outstanding forfeiture at the present time, Circle L Land Company Inc. Mr. Casey provided a handout concerning that permit.

Update on Current Regulations Awaiting OSM Approval

Based upon a prior Board's recommendation to DMME, legislation was passed by the Virginia legislature in 2014 eliminating self bonding. Subsequently, DMME updated its

regulations to strike the self-bonding mechanism already in place. Other changes raised the cap that could be collected under the Pool Bond Fund to \$20 million. Those changes were made to the State regulations and sent to the Office of Surface Mining (OSM) in June, 2015 for review. As of this date, OSM has not made a final decision. Some organizations do not want a cap and want it removed. A & G Coal Corporation is the only company in the pool that is self-bonded and that was before the 2014 law change.

It has been made known at Interstate Mining Compact Commission (IMCC) and national meetings that Virginia is the leader in eliminating the self-bond and OSM has not approved the regulation amendments. There was a lengthy discussion concerning self-bonding among Board members. A copy of the regulations and proposed amendments is available if Board members would like a copy.

Update on OSM Bonding Proposals

Greg Baker serves on the OSM FACT Team (Financial Assurance Continuation Team) and IMCC Bonding Work Group. He stated that OSM's biggest initiative for now is the elimination of self-bonding across the nation. OSM is reviewing bonding assurance overall and how sureties relating mainly to the bonding market are doing. The IMCC workgroup is looking at mineral and hard rock mining, not just coal mining.

OSM wants to strengthen the bonding programs across all states. OSM has discussed whether or not to have one surety or bonding company to be the sole entity bonding a particular permit. It may be better to spread the risk. There was a discussion of other proposals being considered by OSM.

Update on Circle L Bond Forfeiture

A report developed approximately a year and a half ago for the evaluation of liability of Circle L was distributed to Board members. Circle L is the first bond forfeiture in fifteen years. There were two Circle L permits. DMME collected the cash performance bonds of both permits, totaling \$260,000. Subsequently, one of the Circle L permits was re-permitted by another entity. The Circle L bonds will be used to reclaim the permit and if more money is needed, it will be taken from the Pool Bond Fund.

Plans are to do a phased approach on Circle L to stabilize the site and not totally reclaim the site because there is still a potential for coal removal on the site. The first phase would stabilize the fill and provide drainage control; seeding; and take care of any potential problems that exist now. Internal designs are being done and should be completed soon. Once the designs are completed, it will be ready to go out for a competitive bid.

Approval to Solicit Proposal for Pool Bond Fund Actuarial Study

An Actuarial Study was done in October, 2012 to determine the health of the Pool Bond Fund. OSM has asked when the Department is going to do another Actuarial Study. The regulations passed by the State and sent to OSM in 2015 for review were the result of that

Actuarial Study. Those proposed amendments have not been approved by OSM as of this date. Board members do not believe another Request for Proposal should be submitted for an Actuarial Study since OSM is holding up the proposed program amendments and the cost of the last Study was \$90,000.

It was suggested that a formal letter from the Board be written to OSM requesting a decision on the proposed amendments before the Board prepares for another Actuarial Study. A letter will be prepared soon and approved by the Board prior to sending to OSM. There was a lengthy discussion concerning this topic.

Another topic of discussion was the proposal to eliminate the Governor's Mined Land Reclamation Advisory Committee (GAC) and increase membership in the Coal Surface Mining Reclamation Fund Advisory Board.

Last year, the Governor came out with an Executive Order requiring Boards across the state that are not functioning or not meeting, be eliminated. Randy Casey explained a close look was taken at the GAC. It was such a large board and hard to get members together, a decision was made to eliminate the Committee and combine it with the Reclamation Fund Advisory Board and add two new members. A proposal has been made for this change and needs to be passed/approved by the legislature.

The GAC was created for coal related issues with a reporting obligation to IMCC. As a standalone committee, it had outlived his usefulness.

Another meeting will be scheduled in six months. There being no further business to discuss, the meeting was adjourned.