

BOARD OF COAL MINING EXAMINERS

SUMMARY OF MEETING

December 3, 2019

The following is a summary of the December Meeting:

- I. The Meeting was called to order at 9:07 a.m. by Board Chairman, Randy Moore. Members polled indicating their presence was Bennie Johnson Jr., Douglas Deel, Larance Eugene Middleton and Phillip Hale. Also present were DMME Deputy Director, Bradley Lambert; Regulatory Board Administrator, Mary Gibson; and DMME Hearings Coordinator, Darlene Gibson.
- II. Motion and seconded to accept the December 3, 2019 meeting agenda by Bennie Johnson, Jr. and Phillip Hale, respectively. All members present were in favor to approve.
- III. Motion and seconded to approve the October 1, 2019 meeting summary by Bennie Johnson, Jr. and Phillip Hale, respectively. All members present were in favor to approve.
- IV. Review of the Virginia Substance Abuse Cases (Closed Session)
Motion and seconded to approve to enter into Closed Session at 9:10 a.m. by Phillip Hale and Bennie Johnson, Jr. respectively. All members present were in favor to approve. Of the cases that resulted in hearings, evidence were taken by the Board in closed session, pursuant to Virginia Code 2.2- 3711(A) (4) and 45.1-11.35(E). In the closed session, the Board worked out agreements, allowing individuals to return to work conditionally and/or took other disciplinary actions including revocation of all certifications held by miners.
- V. Open Session reconvened at 12:06 p.m. by the reading of the certification statement of compliance with the Virginia Freedom of Information Act by Phillip Hale. Randy Moore, Chairman confirmed the statement to be true. The following Board members were polled by Darlene Gibson certifying the statement to be true as follows: Bennie Johnson, Jr., Douglas Deel, Larance Eugene Middleton and Phillip Hale.

Summary of Closed Session Activity was read into record by Regulatory Board Administrator, Mary Gibson for the following docket items:

#07310-06 Attended

#08063-16 Review Only

#08154-23 Attended

#10222-11 Review Only
#12247-11 Attended
#19190-03 Review Only
#19274-01 Attended
#19274-02 Revoked
#19337-01 Rescheduled
#19337-02 Attended
#19337-03 Rescheduled
#19337-04 Rescheduled
#19337-05 Rescheduled
#19337-06 Rescheduled
#19337-07 Rescheduled
#19337-08 Rescheduled
#19337-09 Attended

Motion and seconded to approve by Bennie Johnson, Jr. and Douglas Deel, respectively; with all members present in favor to approve for Regulatory Board Administrator, Mary Gibson to follow-through on the actions agreed upon during closed sessions.

- VI. Motion and seconded to approve by Bennie Johnson, Jr. and Larance Eugene Middleton, respectively; with all members present in favor to break for lunch and reconvene the meeting for Open Agenda items after lunch.
- VII. Motion and seconded to reconvene the meeting into open session at 1:17 p.m. by Phillip Hale and Bennie Johnson, Jr., respectively; with all members present in favor. Randy Moore made record of those present as follows in addition to the BCME Board members:

Mary Gibson; DMME Board Administrator
Bradley "Butch" Lambert; DMME Deputy Director
Darlene Gibson; DMME Hearings Coordinator (Recorder)
DMME Lebanon staff with the Division of Mines:
Opie McKinney; Lebanon Enforcement Supervisor
Rusty Ward; Technical & Enforcement Inspector
Eddie Taylor; Electrical & Enforcement Supervisor
Tim Lyle; Inspector

Others present:

Nathaniel Blankenship (and spouse); previous 3rd shift Electrician (Blackjewel D18 Mine)

Eric Frye; Attorney representing David Inscore

David Inscore, previous Chief Electrician (Blackjewel D18 Mine)

Keith Goins, previous General Manager (Blackjewel, LLC)

A brief summary of events was provided by Randy Moore as follows in regards to the case involving Mr. David Inscore at the Blackjewel D18 Mine:

It was during an examination being conducted on November 27, 2018 (*Virginia violation #1*) at D-18 by Rusty Ward, DM Coal Mine Inspector and Eddie Taylor, DM Electrical Inspector, that they found a violation of a B-1 section splitter had been intentionally bypassed creating an imminent danger to the life or health of persons in the mine.

This violation resulted in Closure Order RDW0012361 being issued by Mr. Ward. An investigation was initiated by the Division of Mines which included obtaining statements from the employees of the mine and/or audio recording(s) of the interviews conducted. A copy of the audio recordings and the written statements had been submitted to Mr. Eric Frye with Mr. Frye verbally acknowledging receipt.

The initial Board meeting involving this case was on February 19, 2019 with Mr. Inscore being called back on March 5, 2019 after the discovery was made that Mr. Inscore had been suspended in West Virginia due to his involvement of an electrical violation occurring in West Virginia in May, 2018. The Board's decision at that time was to place Mr. Inscore on probation pending the outcome of the Division of Mines investigation of the November 27, 2018 Virginia incident and the conclusion of the West Virginia Boards decision. It was also decided by the BCME Board during the probationary period if any electrical issue occurred that was a violation of the Virginia Law or MSHA by Mr. Inscore or by any others under his watch while acting in the capacity of Supervisor, Mr. Inscore's electrical certification would be immediately suspended without further investigation with Mr. Inscore agreeing to the stipulations of the probationary period.

At the July 9, 2019 BCME Board meeting, the Board suspended Mr. Inscore's electrical certification through August 13, 2019 (*to allow Mr. Inscore to appear again before the Board*) due to a MSHA Inspector issued an electrical violation resulting in the panic bar on the off side of a continuous miner was missing resulting in being bypassed in May, 2019 (*Virginia violation #2*). This determination was a result of the probationary terms from March 5, 2019.

At the August 13, 2019 BCME Board meeting, Mr. Inscore provided testimony and answered questions from the Board regarding the May, 2019 incident. After discussions, the Board reinstated Mr. Inscore's electrical certification in Virginia and to continue with the probation.

On August 30, 2019, Mr. Inscore returned to the West Virginia Board where it was determined his suspended electrical certification was reinstated.

At the time of this hearing, Mr. Inscore is currently working as an Electrician in West Virginia and still remains on probation in Virginia. The purpose of this hearing is to review the conclusion of the November 27, 2018 investigation and the restrictions placed upon Mr. Inscore by the Board on March 5, 2019 which also included the final outcome of the West Virginia Board's decision.

During this hearing; verbal testimony, written statements and review of evidence was heard and examined by the BCME Board resulting in the following:

David Inscore's probation in Virginia on his electrical certification would be lifted with no restrictions and no further action would be taken against Mr. Inscore by motion of Bennie Johnson, Jr. and seconded by Douglas Deel. All members present were in favor to approve.

VIII. Next Meeting
February 4, 2020

IX. Adjournment
Motion and seconded to adjourn the meeting at 4:17 p.m. by Bennie Johnson, Jr, and Larance Eugene Middleton, respectively. All members present were in favor to approve.