

COAL SURFACE MINING RECLAMATION FUND ADVISORY BOARD

January 27, 2004

A meeting of the Coal Surface Mining Reclamation Fund Advisory Board was held on January 27, 2004 at 10:00 a.m. at the Department of Mines, Minerals and Energy Office in Big Stone Gap.

Present

Ernie Barker
Gerald Collins
William Fertall
Marvin Gilliam

Absent

John DiYorio
Paul Ison

Also Present

Ann McDavid
Sandy Smith
Benny Wampler

Gerald Collins called the meeting to order. Board members reviewed minutes of the last meeting on October 3, 2002. Mr. Collins called for a motion to approve the minutes as written. The minutes were unanimously approved.

Review of Current Pool Bond Fund Financial Report

Ann McDavid reported on the pool bond fund financial status. At the end of the second quarter, December 31, 2003, the fund balance was \$5,052,561.84. During the quarter, total revenue received was \$97,596.43. Expenditures totaled \$1,408.44.

Review of Current Pool Bond Fund Liabilities

Ann McDavid reported that \$494,912.73 from the pool has been spent on the Swords Creek Leasing, Inc. project and there is still a liability of approximately \$65,000.00. Although reclamation is complete, there is a \$30,000.00 liability for retainage on the contract. There were two record storm events in the area this past summer that did a lot of damage. Approximately \$35,000.00 has been designated to repair storm damage. There are no other liabilities of the Fund at this time.

Self Bonding

Gerald Collins distributed CDs containing the self-bonding regulations to Board members.

Gerald gave a power point presentation on the outline of what Virginia coal companies need to know about the self-bonding regulations. He read the regulations and commented separately on the underground and surface mine regulations.

Gerald stated the Division has approved one self-bonding permit, and two other permits are in review at this time. Each time a self-bonding permit is approved, it will be tracked at this office. A CPA letter and financial statement are required by regulations to protect the Division where catastrophic circumstances may affect a company and conditions of the self-bonding

change dramatically. Gerald mentioned developing the forms for self-bonding is a long process and may not be final for more than a year.

There was discussion concerning the self-bonding permit process between Gerald and Board Member, Marvin Gilliam. Gerald informed the Board members to call him, or in his absence, Gary Egan, if they have questions.

Benny Wampler briefly discussed the difficulty in getting bonding and that is the reason companies are turning to self-bonding. Benny is a member of a National Bonding Committee looking for solutions to the bonding crisis. He attended a meeting with the Interstate Mining Compact Commission (IMCC) and surety companies. Travelers Insurance is basically the only company interested in writing bonds. There was discussion of updates on companies, evaluations, and monitoring situations to keep a current financial status of companies.

Temporary Cessation

Benny Wampler reported that a random review had been done on some companies listed in temporary cessation. It was determined that approximately 30% of the companies on the list should not have been in temporary cessation. Because of this finding, DMLR inspectors are reviewing 100% of the temporary cessations listed in the Division's books. Many of the companies have been listed for decades and they are of the most concern.

Ernie Barker stated a questionnaire is being used by DMLR inspectors to evaluate leases, coal reserves, etc. The Division is concerned about whether the coal reserves are tied up and if the leases are still in place to mine the coal. All companies reported they were in temporary cessation due to economic conditions.

Benny discussed the serious problems West Virginia is having with bond forfeitures and their Reclamation Fund.

Benny stated all bond forfeitures in Virginia have been reclaimed with the exception of one mentioned by Ann that is cost bonded. It is a load-out facility where the property owner has been given time to dismantle and sell the metal for scrap. Virginia has essentially zero liability on bond forfeitures with the exception of \$65,000.00 on Swords Creek Leasing. Benny remarked that DMLR has asked OSM to accompany them on final inspections of bond forfeiture sites before release of jurisdiction. That has worked well to keep liability away from someone who could file a lawsuit and say the fund is inadequate.

Benny asked if there were any questions on the Permit Bond Balances and Pool Bond Transfers reports. There was a brief discussion of these reports.

The next meeting was tentatively scheduled for Tuesday, October 19, 2004. Benny believes the regulation for the phased bond release will be finalized by that date. The regulation will be an agenda item.

There being no further discussions, the meeting was adjourned.