

MINUTES

COAL SURFACE MINING RECLAMATION FUND ADVISORY BOARD

CONFERENCE ROOM #211

October 16, 2019

10:00 a.m.

Members Present

Gerald Collins
John P. Jones
Barbara Altizer
Brad Kreps
Randy Casey
Donna Stanley

Others Present

Matt Hepler, Appalachian Voices
Greg Baker, DMME
Bradley Lambert, DMME
Darlene Gibson, DMME
Gavin Bledsoe, DMME

Randy Casey, Director of DMLR called the meeting of the Coal Surface Mining Reclamation Fund Advisory Board to order on October 16, 2019 at 10:01 a.m. at the Virginia Department of Mines, Minerals and Energy (DMME) office in Big Stone Gap, VA.

Welcome and Introductions

All present made a brief self-introduction as follows: Randy Casey, Director of DMLR; Donna Stanley, retired- citizen member; Barbara Altizer, VA Coal and Energy Alliance; Butch Lambert, DMME; Darlene Gibson, DMME; Gavin Bledsoe, DMME; Gerald Collins, Coal Mining Engineering Services; John Paul Jones, Contura; Greg Baker, DMME and Matt Hepler, Appalachia Voices.

***It is noted that Brad Kreps came into the meeting later.*

Minute's approval

Motion and seconded to approve the April 9, 2019 meeting minutes by Gavin Bledsoe and John P. Jones, respectively. All members present were in favor.

Election of Chairman

Motion and seconded to nominate Chris Stanley as Chairman was made by John P. Jones and Barbara Altizer, respectively. All members present were in favor.

***It is noted that Chris Stanley had been the previous Chairman.*

Status of Pool Bond Fund

Greg Baker of DMME provided updated numbers to the Pool Bond Fund balance effective October 16, 2019:

| | |
|---|----------------------|
| Fund Balance End of March, 2019: | \$ 9,326,303.40 |
| Fund Balance End of September, 2019: | \$ 9,668,982.54 |
| The Fund Balance increased by: | \$ 342,679.14** |
| Amount of Pool Bond Posted: | \$ 116,759,500.00*** |
| <i>(Includes mix of Sureties, Letter of credits, CD's, etc..)</i> | |
| Self-Bond amounts | \$ 24,964,425.00 |
| <i>(All being A & G Coal Corp.)</i> | |

151 Permits are participating in the Pool.

Forfeited

Circle L Land Company, Inc. Permit No. 1102091

***The Balance reflects the annual salary (\$41,700) paid by the Fund. Current regulations allow for one salary to be paid out of the Pool Bond Fund as part of the management of the Pool Bond Fund with the position being within the Accounting Department at DMME.*

****The balance is down by approximately \$112,800.00 due to bond releases and other varying factors.*

Update on current regulations awaiting OSM Approval

Randy Casey and Bradley Lambert provided updates as follows: There are no changes to the status from the last meeting of April 9, 2019. The pending regulation is removing the self-bond and the acceptance of the Pool Bond changes. OSM has a new Director, Lanney Erdos from Ohio and he has recently made a commitment to fast tract outstanding pending amendments. The outstanding amendment has been at OSM for approximately five (5) years awaiting approval.

It is noted that there is an amended Virginia regulation now in effect to not accept any further self-bonds.

Update on Justice Permits and Compliance Agreement Status

Gavin Bledsoe provided an update on the Justice Companies. They are currently working under a compliance agreement and progress is being made. There are thirty-nine (39) Justice Company permits; to name a few are A & G Coal, Matt Mining, Meg-Lynn, Black River and Chestnut Land Holdings.

They are currently working on two (2) permits, Baden Reclamation and the A & G Coal permit #112058. It is estimated they will be completed within two (2) weeks and will then move onto the Kelly Branch Operation. They are behind schedule in relation to the compliance agreement due to varying factors, one of which is equipment failure. The majority of current violations have been administrative rather than environmental. They are also under an EPA agreement to ensure their water quality is in compliance, therefore; all required water monitoring are being conducted.

Since 2012, there have been approximately 800 violations and assessed more than \$2.2 million in civil penalties; all but approximately \$26,000 is pending. In addition, there has been \$676,000 in penalties for failure to meet the compliance agreement; which has been paid.

The Justice Companies are the only compliance agreements that relates to the Pool Bond.

Follow-up discussion on qualifications for entry into the Pool Bond

Motion and seconded by Barbara Altizer and John P. Jones, respectively. All members present were in favor to accept the proposed changes as a guidance document to the *Participation in Virginia's Pool Bond Fund* as presented at the April 9, 2019 meeting.

Bond Forfeiture Status

Randy Casey provided an update on the Circle L, Pool bond forfeiture. Previously, there had been some hesitation to proceed due to possible interest(s) of taking over the permit. However, since there have not been any firm prospects, it was decided to proceed with the bond forfeiture. The original estimate to reclaim the site was between \$700,000 and \$800,000. A new in-depth study of the site to include aerial photographs, mapping and volume calculations on the available material has been conducted and it has been determined a closer rough estimate to reclaim is between \$400,000 and \$500,000. Currently the engineers are working to finalize the study which will determine how to put the site out to bid.

Status of bankruptcies and assumption of related permits

Gavin Bledsoe provided an update to the remaining permit(s) in Chapter 11 bankruptcy status, specifically, Cambrian Holding Company, Inc., which includes Clintwood Elkhorn Mining and Apex Energy. Clintwood Elkhorn has been staying in compliance, however; there is concern for Apex Energy due to some enforcement actions and show-cause orders. There is a compliance agreement in place with Clintwood Elkhorn in regards to a slide going off the permit; they are not in the Pool.

Other Business (including non-pool bond issues)

Gavin Bledsoe provided updates on the remaining compliance agreement(s) that are with Revelation and Blackjewel, which are in bankruptcy. This company has seventy-two (72) permits; all but eight (8) are being processed for transfer to new companies. However; there is one (1) permit in the Pool with an estimated reclamation of \$245,000 to complete. It is the consensus there are not any kind of jeopardy to the Pool due to having over \$2 million in surety bonds.

Randy Casey provided an update, after discussing with the Surety companies, should Harold Keene Surface (Omega) enter into bond forfeiture there are enough funds to cover any reclamation.

AML Pilot funding for 2020 is in the budget, which is yet to be passed.

The 2019 funding remains in a continuing resolution, which ensures the funding to be available. There are a number of projects readily available without any anticipated loss of funds; of the \$10 million available funds there are a total of \$27 million project requests. The AML Pilot funds can be extended out beyond the 3-year grant cycle whereas; the other funding must be spent.

Next Meeting

Next scheduled meeting is tentatively set for March 18, 2020 @ 10:00 a.m.

Adjournment

Meeting was adjourned at 10:45 a.m.