

MINUTES

COAL SURFACE MINING RECLAMATION FUND ADVISORY BOARD

Conference Room 116

March 14, 2018

2:00 p.m.

Members Present

Gavin Bledsoe
Randy Casey
John Jones
Chris Stanley, Chairman
Donna Stanley

Also Present

Greg Baker
Matt Hepler, Appalachian Voices
Kim Graves, Appalachian Voices
Sandy Smith

A meeting of the Coal Surface Mining Reclamation Fund Advisory Board (RFAB) was held on March 14, 2018 at 2:00 p.m. at the Department of Mines, Minerals and Energy (DMME) Office in Big Stone Gap. Randy Casey called the meeting to order.

Status of Pool Bond Fund

Greg Baker reported on the financial status of the pool bond Fund. At the end of the fiscal year, June 30, 2017, the Funds balance was \$8,409,003.95. The Fund balance as of December 31, 2017 was \$8,675,456.89. Total pool bond posted amount is \$113,771,900.00. That is in bonds of any type; surety, CD's, Letters of Credit, etc. Of that amount, self-bond is \$24,964,425.00. That is included in the \$113 million. Tonnage is up from the previous year. A salary of \$41,700 for administering the Fund will come out of the current quarter.

Five new permits were issued in 2017 and four of those were pool bond. Fifty-four transfers were issued and fourteen of those were pool bond.

Update on Current Regulations Awaiting the Office of Surface Mining (OSM) Approval

There are two regulations awaiting OSM approval. The first regulation is removing self-bond. There is only one company that has self-bonding in Virginia. The second regulation is changing when proof of publication is required to be submitted with a permit or revision application. The change requires the proof of publication be submitted with the next resubmittal of an application after the last date of publication. This regulation change was recommended and agreed upon by a joint OSM and DMLR oversight team. The changes are in the Washington, D.C. office awaiting approval.

There was a discussion about self-bonding in other states.

Update on OSM Bonding Proposals

There are no updates for bonding proposals. This may be a "dead" issue as there has been no correspondence from OSM for a year or longer.

Update on Justice Permits and Compliance Agreement Status

A hearing is scheduled for March 21 at 9:00 a.m. for Justice on a Show Cause Order on one of their permits for failure to put in diversion ditches on some of their hollow fills.

Determinations of bond forfeiture on several permits for failure to comply with outstanding enforcement action have been issued on Justice. During the heavy rainfall in early February, a slide from a Justice permit encroached on the railway. A Cessation Order (CO) was issued. Justice did not comply with the CO; therefore, a bond forfeiture determination was issued on that permit located in Lee County.

A hearing is pending on Baden Reclamation. Several permits have been reclaimed under the compliance agreement. Seeding needs to be completed on three sites.

There was a lengthy discussion concerning the issues with the Justice permits.

Discussion on Qualifications for Entry into the Pool Bond

As of now, the qualification for entry into the pool Fund requires three years of experience in Virginia. The Department of Mines, Minerals and Energy (DMME) staff; and ultimately, the Deputy Director makes the decision whether or not to allow a company to join the pool Fund.

A suggestion was put before the Board that instead of the decision for eligibility falling on DMME staff, the Board could review any new applicants and make recommendations for entry into the pool. The Board could meet quarterly to review new applicants. It should be noted that under 4VAC25-130-801.16(a), Reinstatement to the Fund, the Board may recommend to the Director that the person seeking reinstatement pay interest to the Fund.

There was a lengthy discussion of concerns, pros and cons concerning the Board making the decision for permit entry into the pool. The DMME Deputy Director will be briefed as to concerns, etc. of the Board members. An update will be provided at the next meeting.

A guidance document for making a determination for entry into the pool will be written and presented at the next Board meeting. The Board will recommend approval or disapproval of the guidance document.

Other Business

Only one company in Virginia has self-bonds and they were grandfathered in when they bought out a company several years ago. There was a lengthy discussion concerning this company.

It was suggested that the Board meet again in August. There being no further discussion, the meeting was adjourned.