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## **WEST VIRGINIA BOARD OF COAL MINE HEALTH AND SAFETY**

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Board of Coal Mine Health and Safety  
20 January – 10:00am  
21 January – 10:00am  
1615 Washington Street East  
Charleston, WV

### **Minutes**

#### Board Members Present:

Dave Ashby	Carl Egnor
Chris Hamilton	Ted Hapney
Charles Russell, III	Gary Trout

The Administrator acted as Chairperson.

#### Guests:

Jama Jarret	Wess Harris
Fred Tucker	Joe Ingram

As a matter of business, the Board decided to not record the meetings

Mr. Trout made a motion to accept the December minutes; Mr. Egnor second. The motion then carried.

Mr. Hamilton made a motion to accept the Administrator's Report on Fatal 07-08 October 8, 2008 Mountaineer Labor Solutions Contractor) Independence Coal Co., Inc., Justice Mine No. 1, Boone County; Mr. Ashby seconded. The motion then carried.

Mr. Russell asked that the violations be included in the Administrator's Findings of Fact and Conclusions of Law.

Discussion on creation of state regulations in response to MSHA's 30 CFR-75. The Board asked the Administrator to update the previously prepared side-by-side comparing the Final Rule as promulgated by MSHA and the current State Rule. Further, the Board asked for a legal opinion in regards to time limits for the next meeting date. (Discussion was continued to Day 2.)

Discussion on Title 36 Series 6 – Longwall Equipment (high voltage). The Board asked the Administrator to prepare a current requirement for the variances for longwall high voltage for the next meeting date (Discussion was continued to Day 2.)

Discussion on Title 36 Series 27 14.5 (oil and gas wells). (See Day 2)

Mr. Hapney made a motion to move the discussion on proposed regulations to the next monthly meeting. Mr. Trout seconded. The motion then carried.

Mr. Hamilton asked the Administrator to provide the Board with an updated number of suspended miner certifications from Virginia and Kentucky.

The Board instructed the Administrator to facilitate a briefing process with the Director concerning any information on fatalities that have occurred between Board meetings by have not been finalized in report form.

Mr. Tucker presented the Technical Review Committee Report:

- Mr. Ashby made a motion to approve variance request 21-08, CONSOL Energy, Miller Creek Operations. Mr. Hamilton seconded. The motion then carried.
- Mr. Hamilton made a motion to approve variance request 40-08, Shoemaker Mine. Mr. Ashby seconded. The motion then carried.
- Mr. Ashby made a motion to approve variance request 41-08, McElroy Mine. Mr. Hamilton seconded. The motion then carried.
- Mr. Ashby made a motion to approve variance request 51-08, Shoemaker. Mr. Hamilton seconded. The motion then carried.
- Mr. Hamilton made a motion to approve variance request 89-08, Mettiki Coal WV. Mr. Hapney offered an amendment to the motion to a time limit to the request to include the phrase 'end of panel'. Mr. Russell seconded them motion with amendment. The motion then carried as amended.
- Mr. Hapney made a motion to hold variance request 01-09, Hobet Mining, until the next meeting. Mr. Trout seconded. The motion then carried.

The Board asked the Administrator to solicit the opinion of the Director concerning the variances on Tunnel Mines and Emolition oil and to report to the Board on the next meeting date.

The Board requests that the Public identify themselves before the start of each meeting

Mr. Joe Ingram, representing himself for a petition request, made a presentation to the Board concerning mine rescue teams age limits.

The Administrator gave a report on office expenditures and the Diesel Equipment Commission.

Mr. Wess Harris made a presentation to the Board regarding a proposed reverse 911 system regulation around impoundments.

Day 2 –

The Board instructed the Administrator to solicit the Department of Homeland Security for monthly calls from coal mines regarding all incidents.

The Board continued the discussion on tunnel mines from the previous day. Mr. Hamilton made a motion to approve all outstanding variance requests concerning tunnel mines; Mr. Russell seconded. The motion then carried. Mr. Hapney requested that the variance numbers be included with the January minutes.

The Board instructed the Administrator to draft a proposed rule for pre-existing tunnel mines for the next Board meeting.

The Board discussed 22A-2-4a(c) in regards to its responsibilities with this subject and the Final Rule promulgated by MSHA on 31 December 2008 concerning 'belt air'. The Final Rule as promulgated by MSHA has been challenged by the United Mine Workers of America in Circuit Court. The Board will continue its investigation, pursuant to any litigation, on a going forward basis; however, the Board finds that the current provisions of state law governing the use of 'belt air' is adequate in the interim until the Board reached a final decision, if any, on the new standard.

The Board asked Mr. Tucker to meet with Mr. Cook of MSHA concerning Longwall and Continuous Miner High Voltage. Further, the Board instructed the Administrator to draft a proposed rule on longwall high voltage usage.

The Administrator presented the Board with an update on the lawsuit involving the gasline rule promulgated by the Board. Mr. Hamilton made a motion for the Board's Attorney to intervene. Mr. Trout seconded. The motion then carried. Further, the Board instructed the Board's Attorney (through the Administrator) to request inclusion as a party to any discussion concerning the above mentioned rule and lawsuit held by the Director and the Plaintiffs in the lawsuit.

The Board heard from the Administrator as to the Director's suggestion concerning the use of emollition oil.

The next meeting date was set for 25 and 26 February, 10am in Charleston, WV.

Mr. Ashby made a motion to adjourn. Mr. Trout seconded. The motion then carried.