U.S. Department of Labor

Mine Safety and Health Administration
100 Fae Ramsey Lane
Pikeville, Kentucky 41501

June 12, 2008

Mr. Leslie D. Hackney
Superintendent
Mine # 1
Rockhouse Energy Mining Company
Sidney Coal P.O. Box 299
Sidney, Ky. 41564

Dear Mr. Hackney:

In accordance with Section 104(e) of the Federal Mine Safety and Health Act of 1977 (Mine Act) and 30 CFR Part 104, the Mine Safety and Health Administration (MSHA) has conducted a pattern of violation (POV) screening of compliance records for the No. 1 Mine, MSHA ID 15-17651 for the 24-months ending March 31, 2008. A POV screening is used to determine if Section 104(e) is applicable to a particular mine. If implemented, Section 104(e) requires all subsequent violations designated as Significant and Substantial (S&S) be issued as closure orders with all persons withdrawn from the affected area except those necessary to correct the violation. An operator can be removed from Section 104(e) sanctions only after an inspection of the entire operation results in no significant and substantial violations.

This letter is your notification that a potential pattern of violations exists at the No. 1 Mine. This notification is based upon the initial screening and pattern criteria review, which were conducted in accordance with 30 CFR Parts 104.2 and 104.3 respectively. A Pattern of Violation Review report is enclosed as Attachment A. This report details the methodology utilized for the initial screening and pattern criteria review and summarizes your mine's performance relative to the criteria.

Prior to MSHA implementing Section 104(e) sanctions at the No. 1 Mine, you are provided the opportunity, not to exceed 20 days from the date of this notification, to take any or all of the following steps:

Review all documents upon which the pattern of violations evaluation is based and provide additional mitigating information.

Submit a written request for a conference with me (I shall hold any conference within 10 days of a request).

Provide a written plan to me indicating that you will institute a corrective action program to avoid repeated significant and substantial violations at the operation.

Please note that current regulation 30 C.F.R. Part 104.4(d) requires that you post a copy of this letter on the mine bulletin board until you are notified of MSHA's final determination with respect to your status pursuant to Section 104(e) of the Mine Act.

If you implement a corrective action program, MSHA will conduct a complete inspection of the No. 1 Mine. This inspection may start as soon as July 1, 2008. I will analyze the results of this complete inspection and other on-site enforcement activities conducted during the corrective action period to evaluate whether the No. 1 Mine has effectively reduced the occurrence of S&S violations during the review period. Therefore, I encourage you to implement a corrective action program as soon as practicable. If, during the review period, the No. 1 Mine achieves a reduction in the S&S violation frequency rate to 8.21 S&S violations per 100 inspection hours, the No. 1 Mine will not be issued a pattern of violations notice during this POV review cycle. [1]

If you implement a corrective action program which does not reduce the rate of S&S violations to the levels set forth in the paragraph above, pursuant to 30 C.F.R. Section 104.5(b), I will submit an evaluation report to the Administrator for Coal within 120 days from the date of this notification. If you choose not to implement a program to reduce S&S violations, I will submit the report of the evaluation to the Administrator within 60 days from the date of this notification.

In both cases, a copy of the report of evaluation will be provided to you 10 days before the report is sent to the Administrator. You will have 10 days from the receipt of the report to submit written comments to the Administrator.

Within 30 days of receipt of my report to the Administrator, the Administrator will issue a decision as to whether the No. 1 Mine is to be issued a Notice of a Pattern of Violations. A copy of the decision will be provided to you.

If the Administrator decides to issue a Notice of Pattern of Violations, I will issue the Notice of Pattern of Violations to you.

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[1] However, mines which have implemented a successful corrective action plan during the 90 day evaluation period will be considered along with all other mines for potential pattern of violation notices during the next and subsequent review cycles. In the case of the No. 1 Mine, it was issued 11.73 S&S violations per 100 inspection hours during the 24-month review period and is 6.38 points higher than the national average of 5.35 S&S violation per 100 inspection hours for active underground mines. To ensure the No. 1 Mine is not exhibiting a potential Pattern of Violations when the next evaluation is conducted, the No. 1 Mine should have an S&S violation rate at or near the national rate. MSHA is required to conduct evaluations at least annually but can conduct the evaluations more frequently.

Following issuance of a Notice of Pattern of Violations, I will initiate appropriate inspection activities to ensure that the No. 1 Mine is inspected in its entirety during the following 90-day time frame and each succeeding inspection cycle until the Pattern of Violation order is terminated.

If upon any inspection after the issuance of the Pattern of Violations Notice an authorized representative finds any violation of a mandatory health or safety standard which could significantly and substantially contribute to the cause and effect of a safety or health hazard, the inspector shall issue an order requiring the withdrawal of all persons in the area affected by the violation except those persons listed in 104(c) of the Mine Act. All persons except as listed in 104(c) of the Mine Act shall also be prohibited from entering that area until the inspector determines that such violation has been abated.

Termination of a Pattern of Violations notice shall occur when an inspection of the entire operation results in no significant and substantial violations of the Mine Act.

You may request an inspection of the entire operation or portions of the operation at any time. No advance notice of the inspection shall be provided and MSHA will determine the scope of each inspection. Partial inspections covering the entire operation within the 90-day period will constitute an inspection of the entire operation for the purposes of termination of a Pattern of Violations Notice.

Please contact me at (606) 432-0944 if you have any questions regarding this matter. Additional mitigating information, requests for a conference and/or a written plan to institute a corrective action program should be sent to me at:

Norman G. Page
100 Fae Ramsey Lane
Pikeville, Ky. 41501

Sincerely,

Norman G. Page
District Manager

Attachment