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Contact: Amy Louviere
Phone: 202-693-9423
E-mail: louviere.amy@dol.gov

US Labor Department and mine operator in Puerto Rico negotiate settlement in discrimination case *Miner fired after cooperating in federal investigation is permanently reinstated*

ARLINGTON, Va. – The U.S. Department of Labor’s Mine Safety and Health Administration today announced that it has negotiated a settlement agreement with Comunidad Agricola Bianchi Inc. of San Juan, Puerto Rico, in a discrimination case involving a miner employed by the company’s operation in Rincon, Puerto Rico. Jose A. Chaparro was fired from his job shortly after cooperating in an MSHA hazard complaint investigation at the mine.

In August 2009, MSHA received an anonymous hazard complaint raising concerns about safety issues at the mine, including details about an unreported June 2009 accident at the mine involving Chaparro. As a result, MSHA launched a hazard complaint investigation. The same day that MSHA spoke with Chaparro about his accident, the mine superintendent fired him.

In a complaint filed with the Mine Safety and Health Review Commission, MSHA sought a finding that Chaparro was unlawfully discriminated against and discharged in violation of Section 105(c)(1) of the Federal Mine Safety and Health Act of 1977, which states that miners, their representatives and applicants for employment are protected from retaliation for engaging in safety and/or health-related activities, such as identifying hazards, asking for MSHA inspections or refusing to engage in an unsafe act. The complaint also sought Chaparro’s reinstatement to his position or a comparable one, \$6,000 in back pay, all employment benefits, all medical and hospital benefits, and any and all other damages suffered and incurred by Chaparro as a result of the discriminatory discharge, as well as a \$15,000 civil money penalty.

Following a hearing in February 2010, a judge ordered Chaparro temporarily reinstated to his job at the mine. In a second amended complaint, MSHA brought a claim of post-reinstatement retaliation against Comunidad Agricola Bianchi Inc. and three individual representatives of the mine.

In settlement, the company agreed to permanently reinstate Chaparro to his job at the mine and to pay the full \$6,000 in back wages due to Chaparro, as well as the full \$15,000 penalty. The mine operator also agreed that it would not unlawfully discriminate against any miner in its employ for engaging in protected activity.

“The Mine Act is clear,” said Secretary of Labor Hilda L. Solis. “Miners have a right to participate in an MSHA investigation, and they may not be fired, demoted, harassed, transferred, refused employment or suffer any loss of wages for exercising their right. Meanwhile, my department’s Mine Safety and Health Administration will continue to vigorously investigate all discriminatory complaints.”

A Guide to Miners’ Rights and Responsibilities Under the Federal Mine Safety and Health Act of 1977 is available on the MSHA website at
<http://www.msha.gov/S&HINFO/minersrights/minersrights.asp>.

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