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Court grants permanent injunction against CAM Mining LLC following attempt by US Department of Labor's MSHA to inspect mine *Kentucky mine operator prohibited from interfering with federal inspectors*

ARLINGTON, Va. – The U.S. Department of Labor has obtained a permanent injunction in U.S. district court against CAM Mining LLC of Pike County, Ky., prohibiting advance communication of any federal mine inspection.

On July 15, in the U.S. District Court for the Eastern District of Kentucky, Southern Division, Judge Amul R. Thapar ordered defendant CAM Mining LLC not to interfere, hinder or delay the inspection of its Mine No. 28 by giving advance notice of a pending inspection by the Labor Department's Mine Safety and Health Administration through any means of communication to any person working underground. Employees and contractors at the mine must be trained in the requirements of this court order within 30 days, and a copy of the order must be posted at any place where the defendant maintains a communication device between any surface operation and the underground workings of the mine. The order must be incorporated into the defendant's emergency response plan, hazard recognition training and annual refresher training plans. The order obtained by the department's Office of the Solicitor will last for three years, but the prohibition of advance notice is permanent as long as it remains part of the Federal Mine Safety and Health Act of 1977.

This action stems from a June 17 attempt by MSHA to inspect the mine in response to a complaint registered about miners smoking underground on the second shift. When an inspection team arrived at the mine, team members gave instructions to mine management that no one was to call underground and alert the miners working there of the inspection. The team then learned that a mine foreman had been notified MSHA inspectors were outside the mine entrance, giving the miners underground sufficient time and opportunity to hide any smoking materials. The presence and use of smoking materials provides an ignition source that can cause explosions in underground coal mines, so determining whether smoking materials were present and in use at this mine was critical to the safety of the miners. Because of the advance notice, inspectors could not determine whether miners had any smoking materials or were smoking underground.

Section 108 of the Mine Act provides for injunctive relief against noncompliant mine operators who interfere with, hinder or delay inspections of mines by permitting advance notice communicated from the surface operations of mines to individuals working underground.

“We are very pleased that the court not only prohibited advance notice of MSHA inspections to those working underground, but also required the employer to post the order and train workers and contractors, so this incident will not recur in the future,” said Joseph A. Main, assistant secretary of labor for mine safety and health. “If miners are to be protected, MSHA must be able to conduct unannounced inspections in order to identify hazardous conditions in mines.”

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