From: Hales, David DC
Sent: Thursday, January 08, 2009 9:47 PM
To: 'Group@dol.gov'
Subject: Comments Draft PPL on Communications and Tracking

<<PPL Comments.doc>>

COMM-20

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resourcing the future

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29 December 2008

Patricia Silvey
Acting Director, Office of Standards, Variance & Regulations
Mine Safety & Health Administration
1100 Wilson Boulevard
Room 2350
Arlington, VA 22209-3939
Attn:

Dear Ms. Silvey

Comments: Wireless Communications and Electronic Tracking Systems Guidance

San Juan Coal Company is pleased to have the opportunity to provide comments on the Draft PPL regarding Wireless Communications and Electronic Tracking Systems. We have reviewed and completely support the comments prepared by the National Mining Association. Rather than reiterating those comments we offer these additional thoughts.

The Mine Safety and Health Administration attempted to manage seal construction through a similar PPL effort. That process resulted in paralysing the seal approval process. Because no one knew what the target was, no one was able to accomplish compliance. Some operators, San Juan Coal Company included, worked diligently for over two years in order to achieve an approved seal design. We were never able to accomplish that objective.

It is our view that attempting to regulate the subject of Wireless Communications and Electronic Tracking in this same manner will be several orders of magnitude worse. That would ensure that the requirements would not be applied equitably and would not ensure the safety of miners.

The Agency should move forward with specific rulemaking regarding this topic. That approach will provide the targets we all need in order to know what compliance looks like. When the technology finally achieves those longer term targets that MSHA and NIOSH have identified, the MINER Act already contains requirements for operators to adopt this improved technology.

The Agency response regarding the deadlines concerning communications and electronic tracking contained in the MINER Act should be to retract this Draft PPL and then move forward with a proposed rule that clearly specifies what the expectations are to achieve compliance with the requirements. That process would ensure that the requirements are understood and applied across the industry. This would contribute to ensuring all miners are afforded the protections offered by such systems.

Please consider our comments and those of the National Mining Association and withdraw this PPL.

Yours sincerely,

David Hales

David C. Hales CMSP
Health & Safety Superintendent