U. S. Department of Labor

Mine Safety and Health Administration
100 Bluestone Road
Mount Hope, WV 25880-1000

DEC 17 2010

Mr. Randy Wright
Mine Manager
Maple Eagle No. 1 Mine
Maple Coal Co.
2273 Elkridge Road
Powellton, West Virginia 25161

Dear Mr. Wright:

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 12 months ending August 31, 2010 and of accident and employment records for the 12 months ending June 30, 2010, for the Maple Eagle No 1 Mine, MSHA ID No. 40-04236. 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all subsequent violations designated as Significant and Substantial (S&S) be issued as closure orders with all persons withdrawn from the affected area except those necessary to correct the violation.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 mine results in no significant and substantial violations.

This letter is your notification that a potential pattern of violations exists at the Maple Eagle No 1 Mine. This notification is based upon the initial screening and pattern criteria review, which were conducted in accordance with 30 C.F.R. §§ 104.2 and 104.3. A *Screening Criteria Results* report is enclosed. This report details the methodology used 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 Maple Eagle 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. Guidance on what constitutes an appropriate corrective action program is contained in the enclosed document entitled *Pattern of Violations Procedures Summary.*

Please note that 30 C.F.R. § 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.

Maple Eagle No 1 Mine was issued 14.52 S&S violations per 100 inspection hours during the 12-month review period. If the Maple Eagle No 1 Mine implements an appropriate corrective action program, the mine must maintain an S&S rate of 7.26 or lower during the evaluation period (i.e., a 50 percent reduction from the 12-month review period). If a corrective action program is not implemented, the mine must maintain an S&S rate of 4.36 or lower during the evaluation period (i.e., a 70 percent reduction from the 12-month review period). Therefore, I encourage you to implement a corrective action program as soon as practicable. An explanation of these rates, as well as guidelines for an appropriate corrective action program, are contained in the enclosed document entitled *Pattern of Violations Procedures Summary.* Absent mitigating circumstances, the Maple Eagle No 1 Mine must meet one of these goals to avoid being issued a pattern of violations notice during this POV review cycle. [1]

Whether or not you implement a corrective action program, MSHA will conduct a complete inspection of the Maple Eagle No 1 Mine. This inspection may start as soon as January 6, 2011. 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 Maple Eagle No 1 Mine has effectively controlled the occurrence of S&S violations during the review period.

If you implement a corrective action program which does not achieve a rate of S&S violations at or below the applicable 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 Mine Safety and Health within 120 days from the date of

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[1] However, all mines will be considered for potential pattern of violation notices during the next and subsequent review cycles. MSHA is required to conduct evaluations at least annually but can conduct the evaluations more frequently.

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 Maple Eagle 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

Following issuance of a Notice of Pattern of Violations, I will initiate appropriate inspection activities to ensure that the Maple Eagle 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 mine results in no significant and substantial violations or no withdrawal order is issued by MSHA in accordance with section 104(e)(1) of the Act within 90 days of the issuance of the pattern letter.

You may request an inspection of the entire mine or portions of the mine at any time. No advance notice of the inspection shall be provided and MSHA will determine the scope of each inspection. Partial inspections that cumulatively cover 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 (304) 877-3900, ext. 112 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:

Robert G. Hardman, District Manager
100 Bluestone Road
Mount Hope, West Virginia 25880

Sincerely,

Michael T. Robinson for

Robert G. Hardman, District Manager

Enclosures