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US Labor Department, Massey Energy reach settlement agreement *Case involved motion for preliminary injunction against Freedom Energy*

ARLINGTON, Va. – The U.S. Department of Labor’s Mine Safety and Health Administration and Massey Energy reached a settlement agreement today in a case involving Freedom Energy Mining Co.’s Mine No. 1 located in Pike County, Ky. Last November, MSHA filed in federal court a motion for preliminary injunction against the mine, the first such action ever taken by the agency. Section 108(a)(2) of the Federal Mine Safety and Health Act of 1977 provides for injunctive relief against noncompliant mine operators who habitually violate health and safety standards. Shortly thereafter, Massey announced plans to idle the mine permanently.

“Today’s agreement is a legal victory not only for the Department of Labor but for all miners employed by Freedom Energy,” said Secretary of Labor Hilda L. Solis. “Its powerful provisions allow MSHA to withdraw miners immediately over a broad range of hazardous conditions, and health and safety violations. More than ever, these types of actions are forcing mine operators to take a hard look at their safety practices.”

The order, signed by Judge Amul R. Thapar of the U.S. District Court Eastern District of Kentucky, requires Freedom Energy to take certain actions to comply with a recovery plan that will ensure the health and safety of miners who continue to work at the mine as they dismantle and remove mine equipment in preparation for permanent closure.

In addition to the immediate withdrawal provisions, Freedom Energy must provide timetables for activities involving removal of all mining equipment. The highest level management official, including the mine superintendent, must be available at the mine during each working shift to review and countersign the results of each pre-shift, on-shift and weekly examination performed by a certified mine examiner. Miners idled as a result of any withdrawal covered by this order must receive pay for the period during which they were idled up to one week. For periods longer than one week, the company must offer alternate equivalent work within a 60-mile radius of the mine.

All requirements of the order are subject to the court’s contempt proceedings.

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