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U.S. Department of Labor  
Office of Public Affairs  
Arlington, Va.  
Release Number: 13-1864-CHI

For Immediate Release

Sept. 12, 2013

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## **MSHA praises court decision involving Mach Mining ventilation plan**

**ARLINGTON, Va.** – The U.S. Department of Labor’s Mine Safety and Health Administration today applauded an Aug. 26, 2013, ruling by the U.S. Court of Appeals for the Seventh Circuit. The court held that an MSHA district manager has broad discretion to disapprove a mine operator’s proposed ventilation plan for an underground coal mine, and may do so as long as the decision is not arbitrary and capricious. The court rejected the contention that an operator may ask the Federal Mine Safety and Health Review Commission to substitute its judgment for MSHA’s in approving or disapproving a ventilation plan MSHA determines is inadequate to address health and safety requirements and the particular conditions of the mine.

“Both the commission and the Court of Appeals recognized that it is appropriate to leave determinations on the sufficiency of highly technical mine plans to MSHA,” said Joseph A. Main, assistant secretary of labor for mine safety and health. “We believe the court made the appropriate decision in this case.”

At issue in the case was a ventilation plan proposed by Mach Mining LLC for its # 1 Mine, an underground coal mine in Williamson County, Ill. Despite extended good-faith discussions by MSHA, the parties were not able to reach agreement on the contents of the plan.

Following a hearing, an administrative law judge ruled that: the district manager had negotiated in good faith, the district manager’s decision to withhold approval of the plan was not arbitrary and capricious, he had not abused his discretion in determining that the plan was unsuitable and the changes to the plan requested by the district manager were suitable.

After Mach Mining appealed the administrative law judge’s ruling, a 3-2 majority of the commission affirmed. Mach Mining subsequently filed a petition to the Court of Appeals for review, and the Court of Appeals denied Mach Mining’s petition and affirmed the commission’s decision.

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