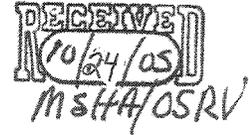


October 17, 2005



David G. Dye
Acting Assistant Secretary Of Mine Safety And Health
MSHA, Office Of Standards, Regulation, and Variances
1100 Wilson Blvd. Room 2350
Arlington, Virginia 22209-3939

Re: (RIN) 1219-AB41

Attention: David G. Dye

We, the **Local United Mine Workers Of America # 1924**, on behalf of our Native American members that utilize peyote as a sacrament in their recognized religious practices, and our traditional herbalist that practise herbalism are concern about the terms "illegal or illicit drugs and Control Substances" as used in the context of the Federal Controlled Substances Act (21 U.S.C. 812). And that MSHA might use this to formulate their "Use Of Or Impairment From Alcohol and Other Drugs on Mine Property" policy on the Navajo Nation "Reservation".

Some of these substances were employed or practise before and after the origination of the Federal Controlled Substances Act (21 U.S.C. 812).

THE PROBLEM: If MSHA proceeds with their " Use Of Or Impairment From Alcohol and Other Drugs on Mine Property" policy utilizing the Federal Controlled Substances Act (21 U.S.C. 812) without making any exceptions or exclusion to the Act here on the Navajo Nation, it will be dwelling upon Native American Religions which is protected by these Acts:

1. **Religious Freedom Restoration Act of 1993**
2. **Public Law 103-344 (American Indian Religious Freedom Act Amendments Of 1994)**
3. **Navajo Nation Code 17 N.N.C 5394 (C)**
4. Also adjudication was made on April 17, 1990 by the **Supreme Court Of The United State** called **Employment Division Of Oregon v. Smith** relating to usage of peyote as a sacrament.

Consequently about 80 to 90% of our members exercise these rights at one time or another to realign their mental and physical well-being.

Also there's a lack of substantial evidence that would indicate that a particular accident was caused by a person under the influence of peyote or natural herbs as investigated by Public Safety Department, and Peabody Coal Company that were conducted The usage of these substances are restricted to ceremonial proceedings.

THE SOLUTION: We strongly advise MSHA to make an exceptions to or exclude (21 U.S.C. Sec.812 SCHEDULE 1 (C) (12) from the Federal Controlled Substances Act when the " Use Of Or Impairment From Alcohol and Other Drugs on Mine Property" policies are being formulated, for application here on the Navajo Nation. In doing so MSHA would have reassured our members that they are earnest about their objectives of implementing their Alcohol and Drugs policy without prejudice.

THE CONCLUSION: We understand the substantial concern for the risks, and hazards to our miner's safety and hopefully we can forge ahead into developing a harmonious policy that we can use to strive against Alcohol and Drugs on Mine Property. To answer questions or give further information please contact Glen Young and can be reached at (928) 697-8120 or (928) 309-1964, or Mitchel Manley at (928) 309-0970

Sincerely, *Mitchel Manley*

**PRESIDENT OF UMWA LOCAL # 1924
P.O. Box # 1052
Kayenta, Arizona 86033**

cc: Mitchel Manley
cc: Glen A Young