



BY HAND DELIVERY – September 25, 2014

Mr. Don McCoy, Mine Production Superintendent
Jesse Creek Mining, LLC
3400 CR 260
Montevallo, AL 35117

Dear Mr. McCoy:

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 Violations (POV) review for the 12 month enforcement period ending July 31, 2014, and of the accident and employment records for the 12 months ending June 30, 2014, for Jesse Creek Mining, LLC, Clark No. 1 Mine, Mine ID 01-03422. MSHA conducts a POV screening to assist MSHA in determining whether a POV designation is appropriate at a particular mine. If a mine receives notice of a POV, Section 104(e) requires all subsequent violations designated as Significant and Substantial (S&S) be issued as withdrawal orders, with all persons withdrawn from the affected area except those necessary to correct the violation.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 if no S&S violations are found within 90 days of the POV Notice. Failing that, a POV designation can be terminated only after an inspection of the entire mine results in no S&S violations.

Clark No. 1 Mine meets the POV screening criteria. However, MSHA has decided to postpone issuing a POV Notice due to mitigating circumstances. In accordance with MSHA's POV regulation at 30 C.F.R. Part 104 and MSHA's posted POV procedures, MSHA considered whether any mitigating circumstances exist, such as ownership or management changes; changes to the mine's operating status; implementation of an effective corrective action program; or other mitigating circumstances. In the case of Clark No. 1 Mine, MSHA found mitigating circumstances sufficient to postpone issuing a Pattern of Violations Notice, pending the results of inspections through December, 2014 to determine if, under its recently submitted CAP, the Clark No. 1 Mine maintains

the reductions in S&S citations and orders it achieved after March, 2014. Specifically, MSHA decided to postpone issuance of a POV Notice for the reasons explained below:

- There was a consistent decline in the mine's S&S issuance rate in each of the last three quarters of the review period, declining from 12.35 in the first quarter to 3.92 in the final quarter, a 68 percent decrease.
- The mine's CAP, approved on September 18, 2014, contains additional steps to maintain the reduced citation levels the mine has achieved. The CAP contains aggressive goals for reducing both S&S citations and injuries.

If the Clark No. 1 Mine achieves an S&S violation frequency of 4.5¹ or fewer S&S issuances per 100 inspection hours during the period starting August 1, 2014 and ending December 31, 2014 MSHA will not issue a POV Notice during this POV review cycle.

If the mine does not achieve the S&S rate of 4.5 or fewer S&S issuances between August 1, 2014 and December 31, 2014, the Administrator for Coal Mine Safety and Health will decide whether the Clark No. 1 Mine will be issued a Notice of a Pattern of Violations.

MSHA reserves the right to rescind this postponement and issue a POV Notice if there is a serious deterioration in safety at the mine.

Please contact me at (205) 290-7300 if you have any questions regarding this matter.

Sincerely,



Richard A. Gates
District Manager
Coal Mine Safety and Health, District 11

¹ Clark No. 1 Mine was issued 9.03 S&S violations per 100 inspection hours during the 12-month review period. MSHA's Guidelines for Corrective Action Programs include an expectation that corrective action programs contain the goal of achieving at least a 50% reduction in the S&S rate stated on the mine's most recent POV Monitoring Tool report. The violation frequency rate of 4.5 is a 50 percent reduction from the mine's rate during the 12-month review period. The company's goal in the mine's current CAP is a reduction to 2.41 and, may be too ambitious for purposes of determining whether a pattern of violations exists at the mine.