

U. S. Department of Labor

OCT 24 2013

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



Mr. Justin Ray, Safety Manager
Brody Mining, LLC
POB 179
Wharton, WV 25208

Dear Mr. Ray:

You are hereby notified that the Mine Safety and Health Administration (MSHA) has determined that a Pattern of Violations exists at the Brody Mine No. 1, Mine ID 46-09086. The determination was made on the basis of repeated violations of mandatory health or safety standards at the mine that could significantly and substantially (S&S) contribute to the cause and effect of safety or health hazards pursuant to § 104(e) of the Mine Act, as described in the attached Notice.

On September 16, 2013, MSHA began its screening of mines for a Pattern of Violations pursuant to 30 C.F.R. § 104 and MSHA's *Pattern of Violations Screening Criteria (2013)*. The screening revealed that for the 12-month period ending August 31, 2013, Brody Mine No. 1 met MSHA's screening criteria for a pattern of violations. MSHA carefully considered if there are any mitigating circumstances that would make issuance of this POV notice inappropriate, or if there are mitigating circumstances that could justify a decision to postpone the issuance of this POV notice to reevaluate conditions in the mine. MSHA determined that there are no mitigating circumstances sufficient to justify not issuing or delaying issuance, of this POV Notice.

If upon any inspection within 90 days after issuance of this Notice, MSHA finds any violation of a mandatory health or safety standard that could significantly and substantially contribute to the cause and effect of a coal or other mine safety or health hazard, MSHA shall issue an order requiring the operator to cause all persons in the area affected by such violation, except those persons referred to in Section 104(c) of the Mine Act, to be withdrawn from, and to be prohibited from entering such area until an Authorized Representative of the Secretary determines that such violation has been abated. This POV notice will terminate if, upon an inspection of the entire mine, MSHA finds no S&S violations of mandatory safety and health standards. The enclosed Notice of Pattern of Violations shall remain posted at Brody Mine No. 1 until it is terminated by an Authorized Representative of the Secretary in accordance with 30 C.F.R. § 104.4. You may request an inspection of the entire mine or portion of the mine in order to satisfy the requirements for terminating this Notice at any time.

Sincerely,


David S. Mandeville
District Manager
Coal Mine Safety and Health, District 4



Section I--Violation Data

1. Date Mo Da Yr 10/24/2013	2. Time (24 Hr. Clock) 1055	3. Citation/ Order Number 7219154
4. Served To Justin Ray, Safety Manager		5. Operator BRODY MINING LLC
6. Mine BRODY MINE NO 1		7. Mine ID 46-09086 (Contractor)
8. Condition or Practice		8a. Written Notice (103g) <input type="checkbox"/>

Pursuant to Section 104(e)(1) of the Federal Mine Safety and Health Act of 1977 (Mine Act), you are hereby notified that a pattern of violations exists at the Brody Mine No. 1 (ID 46-09086). A review of the S&S violations cited at the mine demonstrates a pattern of violations. As illustrative of this pattern of violations, the following groups of violations are representative of violations which are of such nature as could have significantly and substantially contributed to the cause and effect of coal or other mine health or safety hazards:

1. The following eighteen citations/orders were issued citing conditions and/or practices that contribute to ventilation and/or methane hazards: 8125045 (10/9/2012), 8137713 (10/9/2012), 8146352 (10/9/2012), 7167400

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health <input type="checkbox"/> Safety <input type="checkbox"/> Other <input type="checkbox"/>	B. Section of Act	C. Part/Section of Title 30 CFR
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Section II--Inspector's Evaluation

10. Gravity:

A. Injury or Illness (has) (is): No Likelihood Unlikely Reasonably Likely Highly Likely Occurred

B. Injury or illness could reasonably be expected to be: No Lost Workdays Lost Workdays Or Restricted Duty Permanently Disabling Fatal

C. Significant and Substantial: Yes No

D. Number of Persons Affected:

11. Negligence (check one) A. None B. Low C. Moderate D. High E. Reckless Disregard

12. Type of Action 104(e)(1) 13. Type of Issuance (check one) Citation Order Safeguard Written Notice

14. Initial Action A. Citation <input type="checkbox"/> B. Order <input type="checkbox"/> C. Safeguard <input type="checkbox"/> D. Written Notice <input type="checkbox"/>	E. Citation/ Order Number	F. Dated Mo Da Yr
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15. Area or Equipment

16. Termination Due A. Date Mo Da Yr	B. Time (24 Hr. Clock)
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Section III--Termination Action

17. Action to Terminate

18. Terminate A. Date Mo Da Yr	B. Time (24 Hr. Clock)
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Section IV--Automated System Data

19. Type of Inspection (activity code) T02	20. Event Number 9845135	21. Primary or Mill
22. Signature David S. Morris, Acting IM		23. AR Number 23972

MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

Mine Citation/Order
Continuation

U.S. Department of Labor
Mine Safety and Health Administration



Section I--Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation <input type="checkbox"/> <input checked="" type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 10/24/2013	3. Citation/Order Number 7219154
4. Served To Justin Ray, Safety Manager	5. Operator BRODY MINING LLC	
6. Mine BRODY MINE NO 1	7. Mine ID 46-09086	(Contractor)

Section II--Justification for Action

Continuation of 8. Condition or Practice

(11/26/2012), 7168841 (11/26/2012), 7168866 (1/14/2013), 8139621 (1/15/2013), 7168913 (2/13/2013), 3577965 (2/27/2013), 3578036 (5/15/2013), 8155954 (5/21/2013), 8155960 (5/29/2013), 8154782 (6/5/2013), 9000282 (6/10/2013), 7165682 (7/24/2013), 9000311 (7/30/2013), 9000312 (7/30/2013), 9002292 (8/27/2013).

2.The following twenty citations/orders were issued citing conditions and/or practices that contribute to emergency preparedness and escapeway hazards: 8153617 (10/9/2012), 7167386 (10/22/2012), 7167387 (10/23/2012), 7167388 (10/29/2012), 7167389 (10/29/2012), 7167393 (11/1/2012), 7167405 (12/4/2012), 7167412 (12/12/2012), 7168854 (12/17/2012), 7167474 (3/18/2013), 8155914 (4/8/2013), 9000286 (6/19/2013), 7165680 (7/17/2013), 9000305 (7/24/2013), 9000309 (7/29/2013), 9000313 (7/30/2013), 7165694 (8/14/2013), 7166781 (10/3/2013) 7166783 (10/8/2013), 7166784 (10/8/2013).

3.The following nine citations/orders were issued citing conditions and/or practices that contribute to roof and rib hazards: 8151320 (10/18/2012), 7168899 (2/5/2013), 7167471 (3/6/2013), 8155908 (4/4/2013), 8155925 (4/17/2013), 8155936 (5/6/2013), 9000277 (6/5/2013), 7165683 (7/24/2013), 9000307 (7/29/2013).

4.The following seven citations/orders were issued citing conditions and/or practices that contribute to inadequate examinations: 7168801 (10/18/2012), 7167473 (3/18/2013), 8155909 (4/4/2013), 8155926 (4/17/2013), 8155937 (5/6/2013), 9000278 (6/5/2013), 9000304 (7/24/2013).

These groups of violations, taken alone or together, constitute a pattern of violations of mandatory health and safety standards in the coal or other mine which are of such nature as could have significantly and substantially contributed to the cause and effect of coal or other mine health or safety hazards.

If upon any inspection within 90 days after issuance of this Notice, an Authorized Representative of the Secretary finds any violation of a mandatory

See Continuation Form

Section III--Subsequent Action Taken

8. Extended To A. Date Mo Da Yr	B. Time (24 Hr. Clock)	<input type="checkbox"/> C. Vacated	<input type="checkbox"/> D. Terminated	<input type="checkbox"/> E. Modified
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Section IV--Inspection Data

9. Type of Inspection T02	10. Event Number 9845135		
11. Signature David S. Morris	AR Number 23972	12. Date Mo Da Yr 10/24/2013	13. Time (24 Hr. Clock) 1055

Mine Citation/Order
Continuation

U.S. Department of Labor
Mine Safety and Health Administration



Section I--Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation <input type="checkbox"/> <input checked="" type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 10/24/2013	3. Citation/Order Number 7219154
4. Served To Justin Ray, Safety Manager	5. Operator BRODY MINING LLC	
6. Mine BRODY MINE NO 1	7. Mine ID 46-09086	(Contractor)

Section II--Justification for Action

health or safety standard that could significantly and substantially contribute to the cause and effect of a coal or other mine safety or health hazard, the Authorized Representative shall issue an order requiring the operator to cause all persons in the area affected by such violation, except those persons referred to in Section 104(c) of the Mine Act, to be withdrawn from, and to be prohibited from entering such area until an Authorized Representative of the Secretary determines that such violation has been abated. This Notice of Pattern of Violations shall remain posted at the Brody Mine No. 1 until it is terminated by an Authorized Representative.

See Continuation Form

Section III--Subsequent Action Taken

8. Extended To A. Date Mo Da Yr	B. Time (24 Hr. Clock)	<input type="checkbox"/> C. Vacated	<input type="checkbox"/> D. Terminated	<input type="checkbox"/> E. Modified
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Section IV--Inspection Data

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