



Oct 06, 2008

Richard E. Stickler  
 Acting Secretary of Mine Safety and Health  
 MSHA, Office of Standards, Regulations and Variances  
 1100 Wilson BLVD, Room # 2350  
 Arlington, Virginia 22209-3939

Re: RIN 1219-AB41

Attention: Richard Stickler

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 practice herbalism are concerned 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 practiced 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 (21U.S.C. 812) without making any exclusions to the Act here on the Nation 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. §394(C)**
4. Also adjudication was made on April 17, 1990 by the **Supreme Court off the United States called Employment Division of Oregon v. Smith**, relating the 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 is 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 the Public Safety Dept, and Peabody Coal Company that were conducted. The usage of these substances is restricted to ceremonial proceedings.

**The Solution:** We strongly advise MSHA to make exceptions to, or exclude (21 U.S.C. Sec. 812 SCHEDULE 1 (C) (12) from the Federal controlled Substance Act when the

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“Use of/or Impairment from Alcohol and other Drugs on Mine Property” policies are being formulated, for application here on the Nation 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 risk 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 contacts Glen Young at 928-428-0834.

Sincerely, Glen A. Young

*Glen A. Young*  
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LEONARD BAILEY, LU President  
*Leonard Bailey*

Cc: Glen Young  
Cc: UMWA Local # 1924  
Cc: UMWA International  
Cc: U.S. Dept. of Labor/MSHA