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Temporary reinstatement victory for California miner *Mine owner initially refused to comply with judge's order*

ARLINGTON, Va. – The U.S. Department of Labor's Mine Safety and Health Administration today announced that a miner fired from his job at a California rare earth minerals operation when he spoke out about unsafe working conditions has been temporarily reinstated. An administrative law judge with the Federal Mine Safety and Health Review Commission issued a decision April 17 requiring the immediate reinstatement of the miner at the Mt. Pass Mine and Mill in Mountain Pass, Calif. Initially, the mine operator, C.R. Meyer and Sons Co., did not comply with the judge's order.

On April 23, C.R. Meyer and Sons filed a motion to stay the judge's order and a petition for review of the decision with the commission. On April 24, Labor Department attorneys filed in federal district court an application for a temporary restraining order to enjoin the company from violating the reinstatement order, as well as an opposition with the commission to the company's motion, and requested an immediate decision on the operator's motion for stay. On April 26, after the commission denied its motion to stay, the mine operator agreed to reinstate the miner to his job as a foreman retroactive to the date of the reinstatement order. On May 10, the commission remanded the case for the administrative law judge to consider evidence he had excluded in the temporary reinstatement hearing but reiterated in its opinion that "the miner remains reinstated under the terms of the judge's original decision."

The miner, who spoke out about various safety issues at the mine, had refused to work on a sodium carbonate tank until the operator provided him with a material safety data sheet so he would know what to do in the event of overexposure. The miner also wanted to know what type of personal protective equipment to use when handling the chemical substance. In addition, he refused to tie off on a vertical scaffolding pole for protection from falling rather than on a designated tie-off point, as required by MSHA, and made those complaints directly to management. The following day, he was terminated. Mine management told the miner he was laid off for "standing around" on different projects.

Section 105(c) of the Federal Mine Safety and Health Act of 1977 protects miners, their representatives and applicants for employment from retaliation for engaging in safety and/or health-related activities such as identifying hazards, asking for MSHA inspections or refusing to engage in an unsafe act.

"MSHA urges miners to exercise their rights, and actively participate in monitoring safety and health conditions," said Joseph A. Main, assistant secretary of labor for mine safety and health. "Operators need to comply with temporary reinstatement orders while the legal process goes forward."

The miner has been receiving economic reinstatement and returned to full-time work on May 6 as a foreman.

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