

**U.S. Department of Labor**

Mine Safety and Health Administration  
1100 Wilson Boulevard  
Arlington, Virginia 22209-3939



April 12, 2011

Mr. Steven Rocky Justus  
Superintendent  
Apache Mine  
The New West Virginia Mining Company  
WV Rt. 10  
Rockview, WV 24880

Dear Mr. Justus:

You are hereby notified that the Mine Safety and Health Administration (MSHA) has determined that a Pattern of Violations exists at the Apache Mine (ID 46-09180). The determination was made on the basis of the Mine's repeated significant and substantial (S&S) violations of mandatory safety and health standards pursuant to § 104(e) of the Mine Act, 30 C.F.R. Part 104 and MSHA's *Pattern of Violations Screening Criteria (2010)*.

We have carefully considered all of the information you submitted in response to MSHA's November 19, 2010 notification that a Potential Pattern of Violations (PPOV) existed at the Apache Mine, including the results of the corrective action program instituted at the Mine to reduce its rate of significant and substantial violations. Because Apache Mine failed to significantly reduce its rate of S&S violations and no mitigating circumstances exist to justify the Mine's repeated incidence of S&S violations, I concur with the District Manager's recommendation that a POV exists at the Mine.

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in the area affected by such violation, except those persons referred to in Section 104(c) of the Mine Act, to be withdrawn from, and to be prohibited from entering such area until an Authorized Representative of the Secretary determines that such violation has been abated.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 the Apache Mine until it is terminated by an Authorized Representative of the Secretary in accordance with 30 C.F.R. § 104.5.

Sincerely,

A handwritten signature in black ink, appearing to read "Kevin G. Stricklin".

Kevin G. Stricklin  
Administrator for  
Coal Mine Safety and Health

Enclosure