



**B. VENUE**

Venue of this action lies in the United States District Court for the Eastern District of Kentucky, Southern Division at Pikeville, pursuant to Section 108(a)(2) of the Mine Act, 30 U.S.C. §818(a)(2).

**C. FREEDOM ENERGY MINING COMPANY AND  
SIDNEY COAL COMPANY, INC. ARE  
OPERATORS OF A COAL OR OTHER MINE**

1. FREEDOM ENERGY MINING COMPANY is a company engaged in the business of mining coal in Pike County, Kentucky, within the jurisdiction of this Court.

2. At all relevant times FREEDOM ENERGY MINING COMPANY'S Mine # 1 was an underground coal mine in Pike County, Kentucky, and is a "coal or other mine" within the meaning of Mine Act Section 3(h), 30 U.S.C. §802(h).

3. At all relevant times, the products of Mine #1 entered commerce, or the operations or products of Mine #1 affected commerce, within the meaning of Sections 3(b) and 4 of the Mine Act, 30 U.S.C. §§802(b) and 803.

4. At all relevant times, FREEDOM ENERGY MINING COMPANY was, and continues to be, an "operator" of a "coal or other mine" within the meaning of Sections 3(d) and 3(h) of the Mine Act, 30 U.S.C. §§ 802(d) and 802(h).

5. At all relevant times, FREEDOM ENERGY MINING COMPANY was a trade name of, or wholly owned subsidiary of, SIDNEY COAL COMPANY, INC.

6. At all relevant times, SIDNEY COAL COMPANY, INC. was, and continues to be, an "operator" of a "coal or other mine" within the meaning of Sections 3(d) and 3(h) of the Mine Act, 30 U.S.C. §§ 802(d) and 802(h).

**D. PATTERN OF VIOLATION**

7. Since on or about July 1, 2008, and continuing to date, FREEDOM ENERGY MINING COMPANY and SIDNEY COAL COMPANY, INC. d/b/a FREEDOM ENERGY MINING COMPANY (“Defendants”) violated, at Mine #1, mandatory health and safety provisions promulgated under the Mine Act, for which violations the Mine Safety and Health Administration (“MSHA”) issued citations and orders.

8. In the Secretary’s belief, Defendants are engaged in a pattern of violation of failing to examine and maintain critical areas of Mine #1, within the meaning of Section 108(a)(2) of the Mine Act, 30 U.S.C. §818(a)(2), as demonstrated by their continuing violations of the following mandatory health or safety standards:

a. failure to protect the roof, face, and ribs from falls and maintain an effective roof control plan, in violation of 30 C.F.R. § 75.202(a) (protection from falls of roof, face and ribs) and 30 C.F.R. § 75.220(a)(1) (roof control plan);

b. failure to effectively ventilate the mine of methane and other gases, in violation of 30 C.F.R. § 75.370(a)(1) (ventilation plan);

c. failure to clean up coal accumulations and other combustible materials, in violation of 30 C.F.R. § 75.400 (accumulation of combustible materials); and

d. failure to properly examine, test and maintain electrical equipment so as to protect against fire, explosion and other hazards, in violation of 30 C.F.R. § 75.503 (permissible electric face equipment; maintenance) and 30 C.F.R. § 75.512 (electric equipment; examination, testing, and maintenance).

**E. THE PATTERN CONSTITUTES A  
CONTINUING HAZARD TO MINERS**

9. In the Secretary's judgment, Defendants' pattern of violation of mandatory health or safety standards identified in Paragraphs 7 and 8, above, constitutes a continuing hazard to the health or safety of miners, in that Defendants have violated, and will continue to violate, mandatory health or safety standards with the potential for accident, injury or death to miners.

10. The Secretary has reasonable cause to believe that, in the absence of an injunction, Defendants will continue to engage in a pattern of violation of mandatory health or safety standards that constitutes a continuing hazard to the health or safety of miners.

**F. PRAYER**

11. WHEREFORE, cause having been shown, Plaintiff, Secretary of Labor, prays for an order pursuant to Section 108 (b) of the Mine Act, 30 U.S.C. § 818 (b), permanently enjoining FREEDOM ENERGY MINING COMPANY, SIDNEY COAL COMPANY, INC. doing business as FREEDOM ENERGY MINING COMPANY, and all agents, servants, employees, contractors, and subcontractors thereof, and all persons in active concert or participation with them, from violating the provisions of Section 108(a)(2) of the Mine Act, 29 U.S.C. § 818(a)(2).

12. Plaintiff further prays for an Order requiring FREEDOM ENERGY MINING COMPANY and SIDNEY COAL COMPANY, INC. doing business as FREEDOM ENERGY MINING COMPANY, to close Mine #1, and prohibiting mining operations therein (except for persons listed in Section 104(c) of the Mine Act, 30 U.S.C. §814(c)), and, before resuming mining operations and to the Secretary's satisfaction, correct all violations and hazardous conditions in the mine.

13. Plaintiff further prays for an Order requiring FREEDOM ENERGY MINING COMPANY and SIDNEY COAL COMPANY, INC. doing business as FREEDOM ENERGY MINING COMPANY, to establish and maintain, before resuming mining operations and to the Secretary's satisfaction, an effective health and safety management program, and institute other practices that will ensure the health and safety of the miners, to include the following:

- a. establish and maintain an effective training and communication program;
- b. require Defendants' highest-level management officials, including the Mine Superintendent and the Chief Electrician, to personally conduct additional examinations of critical equipment and areas of the mine, including working sections, belts, and electrical equipment;
- c. require Defendants to ensure that other areas of the mine, and equipment therein including belt lines in the working sections, are examined for hazardous conditions and violations, and ensure that such conditions and violations are corrected before such areas or equipment are used;
- d. require Defendants to take additional air readings in specific areas of the mine;
- e. require Defendants to certify the accuracy of the 30 C.F.R. §75.1200 surface map and underground escapeway maps on a daily basis;
- f. require Defendants to maintain a record of any methane detected in excess of 1% on any working section and 2% in any other active workings using a methane or multi-gas detector carried by any person underground;
- g. for any hazardous condition, or for any violation of safety or health standards related to roof control, ventilation, coal accumulations, or electrical equipment, found by the Secretary, in a working section, require Defendants to immediately withdraw all miners (except for

those persons listed in Section 104(c) of the Mine Act, 30 U.S.C. §814(c)) from that working section until such condition or violation is abated and a pre-shift examination has been conducted on that working section.

h. for any hazardous condition, or for any violation of safety or health standards on any equipment, found by the Secretary, Defendants shall immediately withdraw such equipment from service (except for those persons listed in section 104(c) of the Mine Act, 30 U.S.C. §814(c)) until such condition or violation is abated;

i. where miners are idled as a result of a closure pursuant to paragraph 12 of this Complaint, or any withdrawal covered by paragraph 13 of this Complaint, require Defendants to pay the affected miners for any time period such miners are so idled;

j. require Defendants to provide the Secretary with copies of any citations or violations issued by any state or other federal enforcement agency, within twenty four hours of issuance by such enforcement agency;

k. require Defendants to provide the Secretary, upon request, all methane and/or multi-gas detectors with data logging capability used by any person underground with a list of the dates and times each monitor was carried by any person underground, and with copies of the results of any examinations.

l. require Defendants to serve a copy of all citations and orders on all their employees, including clerical, guards, contractors, and underground miners, and post all citations and orders at the mine bathhouse, guard shack, website, and mine bulletin board.

14. Plaintiff further prays for an Order requiring the provisions of Paragraph 13 to continue for a period of one year, or until, during that one year period, the Defendants' mine receives

no significant and substantial violations of any mandatory safety or health standard during any regular inspection of the mine.

15. Plaintiff further prays for all other appropriate relief.

Respectfully submitted,

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