



R. Douglas Walker
President
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July 29, 2009

Bob E. Cornett
District Manager
Mine Safety and Health Administration
U.S. Department of Labor
604 Cheat Road
Morgantown, West Virginia 26508

Via Regular U.S. Mail

RE: MSHA Letter Dated July 21, 2009

Dear Mr. Cornett:

Thank you for your correspondence of July 21, 2009.

As you know, Rockies Express (“REX”) takes seriously the safety of the workers of the Murray Companies, the REX contractors and the public. That interest, in fact, prompted our initial contact with your offices through the John T. Boyd Company on June 23, 2009, regarding the potential for limited blasting over portions of the Murray Companies’ Century Mine, despite the lack of jurisdiction of the Mine Safety and Health Administration (“MSHA”) over our pipeline operations.

On June 24, 2009, pursuant to that contact, Rockies Express forwarded to MSHA for review a copy of its *Rockies Express – East Blasting Plan Rev 3* (Price Gregory) and a map that it had prepared based upon information provided by the Ohio Department of Mineral Resources Management showing the intended pipeline route over the Century Mine. REX then followed up with a telephone conference, again through the John T. Boyd Company, with Thomas Lobb, who we understand to be an MSHA blasting specialist. Mr. Lobb indicated that he had reviewed those materials and thought that our *Blasting Plan Rev 3* could be viewed as ambiguous, in part because it didn’t address specifically blasting over an underground mine. He suggested that potential ambiguity could be avoided by precisely identifying the parameters that REX would use for blasting over underground mines. When asked whether MSHA had preferred guidelines on the subject, Mr. Lobb indicated that MSHA followed Bureau of Mine vibration studies regarding

the protection of surface structures, even though a subsurface mine was involved. Accordingly, MSHA preferred to see a blasting vibration limit of 2.0 inches per second PPV or a scaled distance factor of $25 \text{ ft/lb}^{-1/2}$ for protection when blasting over mines.

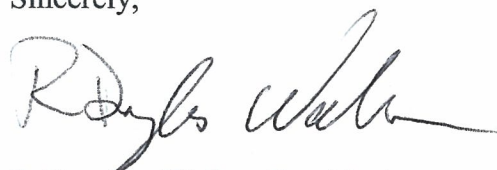
As a consequence, Rockies Express modified its blasting plan and included in its revised *Rockies Express – East Blasting Plan Rev 4* (Price Gregory) the following limitation on all blasting over underground mining operations – a minimum scaled distance factor of 25 or a maximum peak particle velocity of 2.0 inches per second. This is consistent, as we understand it, with guidelines and other materials published by the Bureau of Mines, and is in fact more conservative than the sometimes recommended scale distance factor of 20 mentioned in your letter. Rockies Express also intends to limit the charge weights for the Century Mine to not more than 15 lbs. per delay. Given these very restricted parameters, Rockies Express believes that pipeline construction will be carried out safely over the Century Mine in the event that limited blasting becomes necessary.

In addition, Rockies Express is requiring its contractors to grade and ditch by means other than blasting in most areas. That includes the utilization of a rock trenching machine over areas where miners are expected to be present, minimizing substantially, and perhaps even entirely, the need to blast over the active areas of the Century Mine.

The Federal Energy Regulatory Commission (“FERC”) has reviewed in detail and approved our blasting plan and related communications protocols, with only one minor modification regarding notice. It found specifically that “construction and operation of the REX-East pipeline, as conditioned by our (i.e., the FERC’s) orders, will not constitute a significant safety risk.”¹ Moreover, it correctly observed that “the Golder Associates study provide by Rockies Express supports our (i.e., the FERC’s) assessment that blasting in conjunction with construction of the pipeline is unlikely to have any impact on miners working below areas being blasted.”² We understand the assessment set forth in your July 21st correspondence to be consistent with that conclusion.

If you have any questions regarding our blasting parameters, please let me know.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Douglas Walker". The signature is fluid and cursive, with a long horizontal stroke at the end.

R. Douglas Walker, President

¹ *Rockies Express Pipeline LLC*, 128 FERC ¶ 61,045 at P 71 (2009).

² *Id.* at 73 (requiring only additional proof of blasting notification having been given to the Murray Companies and the Ohio Department of Natural Resources when blasting is to occur over an active mine entry or active mining panel).