

**SECRETARY OF LABOR**  
**WASHINGTON, D.C. 20210**

The Honorable Hampton Dellinger  
Special Counsel  
U.S. Office of Special Counsel  
1730 M Street, NW  
Suite 218  
Washington, D.C. 20036

Dear Mr. Dellinger,

The enclosed report, *Office of Inspector General (OIG) Report on Case No. S-20140054053* is submitted in accordance with your referral of Office of Special Counsel (OSC) File No. DI-24-000612. The report presents the results of the DOL Inspector General's investigation into whistleblower allegations of potential wrongdoing related to the approval of an annual mine map for the Cowpen Resurrection Mine.

The OIG conducted an extensive investigation into the whistleblower allegations and considered additional information regarding the status of the Cowpen Resurrection Mine. As of October 14, 2024, the OIG confirmed that the Cowpen Resurrection Mine is in an idle status with no intention of further mining in the near future. MSHA separately confirmed, through a spot inspection on October 7, 2024, that the mine is idle with no activity or people on site.

On the personnel front, the Department has detailed the MSHA Deputy Assistant Secretary for Operations, who is referenced in the OSC Referral Memorandum, to a position outside of MSHA. while it conducts a review of any potential improprieties related to this matter, along with other pending matters.

The Department appreciate OSC bringing this matter to its attention. Given the current idle status of the Cowpen Resurrection Mine, we request that this matter be considered closed.

Thank you,



JULIE A. SU  
Acting Secretary

REPORT OF INVESTIGATION



U.S. Department of Labor  
Office of Inspector General

|  |   |                    |                      |   |
|--|---|--------------------|----------------------|---|
| <b>Case Title:</b>   | OSC Referral DI-24-000612<br>Cowpen Resurrection Mine | <b>Violations:</b> | <b>Written By:</b>   | SA Thomas Brodowski                       |
| <b>Case #:</b>   | S20140054053  |                    | <b>Date Written:</b> | October 23, 2024                          |
| <b>Report Type:</b>  | Investigative Memoranda                               |                    | <b>Office:</b>       | Office of Special<br>Investigations (OSI) |
| <b>Subject Name:</b>   | MSHA Norton District                                  |                    | <b>Reviewed By:</b>  | SAC Lisa Anderson                         |
| <b>Interview Date:</b>                                       |   |                    | <b>Approved By:</b>  | SAC Lisa Anderson                         |
| <b>Distribution:</b><br>Case File; IG, Acting Secretary, OSC |   |                    |                      |   |

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**SYNOPSIS**

This report of investigation was predicated on a confidential Whistleblower disclosure received by the Office of Special Counsel (OSC), who referred the disclosure to the Acting Secretary of Labor. The Acting Secretary requested that the OIG investigate allegations outlined in the confidential whistleblower complaint related to the Mine Safety and Health Administration (MSHA).

The confidential whistleblower alleged that on March 8, 2024, MSHA's Norton District Manager in Wise, Virginia, approved an annual mine map for Cowpen Resurrection Mine, Mine ID 15-19196 (Cowpen Mine), located in Kentucky. This map allegedly was not compliant with 30 C.F.R. § 75.372.<sup>1</sup> The allegations to be investigated specifically include:

<sup>1</sup> P.L. 91-173, as amended by P.L. 95-164 <https://www.ecfr.gov/current/title-30/chapter-I/subchapter-O/part-75/subpart-D/section-75.372>

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- The improper approval of the 2024 Cowpen Mine map at the direction of the DOL's Office of the Deputy Assistant Secretary for Operations; and
- Any additional or related allegations of wrongdoing discovered.

## **REGULATORY FRAMEWORK**

30 C.F.R. 75.372 Mine ventilation map requires mine operators to submit mine ventilation maps to the district manager at least once every 12 months. The map should include the mine name, company, mine identification number, a legend identifying the scale of the map and symbols used, and the name of the individual responsible for the information on the map. Additionally the map must include other mine workings, locations of known oil and gas wells, drills holes, ventilation components, surface mine openings, airflow direction, active mining sections, escape ways, ventilation controls. The operator also must include plans for mining for the next 12 months, air monitoring sensors, proposed seal locations, ventilation station locations, as well as contour lines showing elevation changes of the mine and ventilation systems. Lastly, a registered engineer or a registered surveyor must certify that the map is accurate.<sup>2</sup>

## **METHODOLOGY**

The Office of Special Investigations (OSI) reviewed the documents provided in the allegation, researched MSHA rules and policy, and gathered additional information pertaining to the Cowpen Mine.<sup>3</sup>

## **INVESTIGATIVE FINDINGS**

### **Allegations**

The complaint indicated, "...30 C.F.R. § 75.372 requires mine operators to submit up-to-date mine maps at least every 12 months to the local District Manager. Subsection (b) describes the required information every mine map must contain, including the 'overlays and underlays,' meaning all known mine workings above and below the mine property and the distances between them. Section (a)(1)

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<sup>2</sup> <https://www.ecfr.gov/current/title-30/chapter-I/subchapter-O/part-75/subpart-D/section-75.372>

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*requires the map to be certified by a registered engineer or a registered surveyor prior to submission.”<sup>4</sup>*

The whistleblower alleged, *“On February 22, 2024, an agent of Cowpen Resurrection Mine 15-19196 (Cowpen Mine), submitted the mine’s annual map for approval to MSHA, but did not include the required overlays and underlays with the map.”* The regulations require that a certified map be submitted at least every 12 months, even if the map’s overlays and underlays have not changed since they were last submitted.

The complaint indicated, *“MSHA initially told the agent that the map would not be approved without the overlays and underlays. In response, the agent told agency employees that they would contact headquarters to force the approval.”*

The complaint further indicated, *“[s]hortly thereafter, the Norton District’s Assistant District Manager, directed the approval of the Cowpen Mine map without the overlays and underlays at the request of DOL’s Office of the Deputy Assistant Secretary for Operations.”<sup>5</sup>* The complainant stated that the map was subsequently sent up the MSHA chain for approval and was initially approved by the Ventilation Specialist. From there, the map was approved at various levels of management including a Supervisory Mine Safety and Health Specialist, an Assistant District Manager and finally the District Manager. The complainant said, *“The map was officially stamped approved by the District Manager on March 8, 2024, without the overlays and underlays being submitted, in violation of 30 C.F.R. § 75.372.”*

## **MSHA Documents**

On July 16, 2024, OIG contacted Norton’s District Manager concerning this complaint. The Norton District Manager provided the Cowpen Mine transmittal sheet and the approval documents, as well as the Cowpen ventilation map with overlays. The documents indicated that the map was certified and stamped by a State of Kentucky Professional Engineer covering the period ending October 12, 2023.

The documentation also contained the Norton District Plan Transmittal Sheet, dated February 21, 2024, listing Resurrection Coal, Inc. as the owner of the Cowpen Mine. The Transmittal Sheet had the initials of the individuals who reviewed and approved the documents, to include the District Specialist,

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<sup>4</sup><https://www.ecfr.gov/current/title-30/chapter-I/subchapter-O/part-75/subpart-D/section-75.372>

<sup>6</sup> Submission of mine maps to MSHA District Manager. <https://www.ecfr.gov/current/title-30/chapter-I/subchapter-O/part-75/subpart-D/section-75.372>

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the Specialist Supervisor, the Assistant District Manager (Technical) and District Manager on March 8, 2024. The documents also show that on March 8, 2024, the District Manager sent a letter to the operator of Resurrection Coal, Inc. advising that the Norton District Office approved the ventilation map. The approval letter also contained additional guidance, specifically telling the operator that the District Ventilation Office must be notified between two and fourteen working days prior to commencement of seal construction and also reiterated the requirements of 30 CFR 75.1700 30 CFR 75.372,<sup>6</sup> and 30 CFR 75.370(g).<sup>7</sup>

On July 16, 2024, the OIG asked the District Manager for the maps and overlays submitted for the Cowpen Mine. The District Manager relayed that the Cowpen mine is currently in idle status as of February 2024. The District Manager further clarified,

*“...overlays and underlays were not submitted with the request. The mine went into temporary idle status in February 2024 and had no intent on mining further. The intent of asking for a new set of underlays and overlays each year with the annual map is to assure you have up to date underlays and overlays where the mine is mining or intends on mining in the upcoming year, since the mine is idled the current overlay and underlay maps, we got from 2023 are still up to date. If the mine were to notify us that the mine planned to start production again, we would request them at that point.”*

## **MSHA Program Policy Manual**

The MSHA Program Policy Manual Volume V – Coal Mines (PPM-V) is a collection of 30 CFR 75 pertaining to the legal requirements and regulations of coal mines. Section 75.1711 (Sealing of Mines), discusses the criteria for a mine to remain in temporary idle status as stated below.

*“Mines in temporarily idled status, even though this status may last longer than 90 days, are not considered permanently closed or abandoned for the purposes of this standard. Mines are considered to be in temporarily idled status when the work of all miners has been terminated and production related activities has ceased. The mine still has recoverable reserves, it is anticipated that this is a temporary condition, and the mine will reopen in the future. This*

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<sup>6</sup> Submission of mine maps to MSHA District Manager. <https://www.ecfr.gov/current/title-30/chapter-I/subchapter-O/part-75/subpart-D/section-75.372>

<sup>7</sup> The ventilation plan for each mine shall be reviewed every 6 months by MSHA. <https://www.ecfr.gov/current/title-30/chapter-I/subchapter-O/part-75/subpart-D/section-75.370>

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*category includes mines that do not maintain ventilation or conduct underground examinations. The only activity at these mines would be security checks, visual examinations of surface areas to determine conditions, or surface activity due to another agency's requirements (e.g. state environmental agency).”<sup>8</sup>*

Additionally, PPM-V states the oversight requirements for MSHA pertaining to coal mines in temporary idle status as follows.

*“While there is no specific time restriction applied to mines in temporarily idled status, it is necessary to verify what activity is taking place at the mine once each quarter. This may be accomplished by a brief mine visit or other documented contact with the mine operator. These mines do not require a regular inspection. The openings of all mines in temporarily idled status must be adequately fenced or guarded prohibiting the entrance of any persons. If an operator removes substantially all recoverable equipment and facilities, such that there is not demonstrable intention of reactivating the mine, the status will be revised to abandoned, the operator notified in writing and sealing shall be required within 90 days.”<sup>9</sup>*

If the mine operator wishes to change the status of the mine, and begin performing, or to cease operations permanently, the operator must follow these legal requirements.

*“Prior to persons performing work at or entering temporarily idled mines, the mine operator must notify the District Manager and complete any necessary plan submission (30 CFR 75.1721) or status change.”<sup>10</sup>*

*“Districts shall conduct regular reviews to assure that these mines are in the appropriate status. It is unlikely that a mine would remain in intermittent or temporarily idled status for more than 12 consecutive months. If it is determined that the condition has become permanent, the mine operator shall be required to seal the mine.”<sup>11</sup>*

## **Current Mine Status**

On July 16, 2024, the District Manager informed OIG that the mine went into temporary idle status in February 2024 with no intent on mining further. On September 25, 2024, the OIG requested the

<sup>8</sup> <https://arlweb.msha.gov/regs/complian/ppm/PMVOL5M.htm>

<sup>9</sup> <https://arlweb.msha.gov/regs/complian/ppm/PMVOL5M.htm>

<sup>10</sup> <https://arlweb.msha.gov/regs/complian/ppm/PMVOL5M.htm>

<sup>11</sup> <https://arlweb.msha.gov/regs/complian/ppm/PMVOL5M.htm>

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current operating status of the Cowpen Mine from the District Manager. In their response, the District Manager stated: *"The Cowpen Mine has not changed its status and is still in idle status with no intention of future mining in the near future."*

To further confirm the mine's current operating status, on October 14, 2024, the OIG queried the Kentucky Mine Mapping Information System which indicated that mine 15-19196 (Cowpen Mine) is currently inactive.

Lastly, in accordance with the MSHA requirements contained within PPM-V as discussed in the prior section, MSHA conducted a spot inspection of the Cowpen Mine on October 7, 2024. The inspection report states that the mine is idle with no activity or people on site. It also included a photo of the locked mine site access gate.

## **CLOSING**

OIG has concluded its investigation and is referring the investigative memorandum to the Department of Labor's Acting Secretary for review and transmittal to OSC.

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