

**November 04, 2004**

In the matter of:  
Dickenson-Russell Coal Company, LLC  
Laurel Mountain Mine  
I.D. No. 44-06444

Petition for Modification

Docket No. M-2003-095-C

### PROPOSED DECISION AND ORDER

On December 16, 2003, a petition was filed seeking a modification of the application of 30 CFR 75.1710-1(a) to Petitioner's Laurel Mountain Mine, located in Russell County, Virginia.

The Petitioner alleges that application of this standard will result in a diminution of safety to the miners and requests that three different models of scoops and a roof-bolting machine be required to have substantially constructed cabs or canopies only when the mining height is greater than the 42 inches specified in the standard.

MSHA personnel conducted an investigation of the petition and filed a report of their findings and recommendation with the Administrator for Coal Mine Safety and Health. After a careful review of the entire record, including the petition and MSHA's investigative report and recommendation, this Proposed Decision and Order is issued.

### Finding of Fact and Conclusion of Law

It has been determined the application of 30 CFR 75.1710-1(a) to the subject mine will not result in a diminution of safety to the miners for the three scoop models and one roof-bolting machine in heights (floor to roof) of 42 inches or greater.

Measurements taken by the investigating team of mining height on the active sections ranged from 60 to 100 inches; however, some mining heights outby where the equipment is required to travel were as low as 47 inches.

This mine experienced 19 roof falls between December 2001 and December 2003, two of which were on the working section. Allowing removal of canopies from the mining equipment would expose the equipment operators to roof fall hazards. The investigators documented that the mine roof contained numerous fractures. In addition, second mining of the "Tiller" coalbed, which is approximately 50 feet beneath the "Jawbone" coalbed currently being mined, could influence further deteriorating roof conditions and be responsible for subsidence that damages the roof above the overlying coal beds.

On the basis of the petition and the findings of MSHA's investigation, Dickenson-Russell Coal Company, LLC is denied modification of the application of 30 CFR 75.1710-1(a) for its Laurel Mountain Mine.

## ORDER

Wherefore, pursuant to the authority delegated by the Secretary of Labor to the Administrator for Coal Mine Safety and Health, and pursuant to Section 101(c) of the Federal Mine Safety and Health Act of 1977, 30 U.S.C., Sec. 811(c), it is ordered that Dickenson-Russell Coal Company, LLC's Petition for Modification of the application of 30 CFR 75.1710-1(a) for the Laurel Mountain Mine is hereby:

DENIED.

Any party to this action desiring a hearing on this matter must file in accordance with 30 CFR 44.14 within 30 days. The request for hearing must be filed with the Administrator for Coal Mine Safety and Health, 1100 Wilson Boulevard, Arlington, Virginia 22203.

If a hearing is requested, the request shall contain a concise summary of position on the issues of fact or law desired to be raised by the party requesting the hearing, including specific objections to the proposed decision.

A party other than Petitioner who has requested a hearing shall also comment upon all issues of fact or law presented in the petition, and any party to this action requesting a hearing may indicate a desired hearing site. If no request for a hearing is filed within 30 days after service thereof, the Decision and Order will become final and must be posted by the operator on the mine bulletin board at the mine.

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John F. Langton,  
Deputy Administrator for  
Coal Mine Safety and Health

Certificate of Service

I hereby certify that a copy of this proposed decision was served personally or mailed, postage prepaid, this \_\_\_\_ day of \_\_\_\_\_, 2004, to:

Mr. Ray Woods, Chairman  
Health & Safety Committee  
Laurel Mountain Mine  
Dickenson-Russell Coal Company, LLC  
Route 2, Box 73  
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Ms. Suzan E. Moore, Counsel  
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Melissa C. Beaty  
Mine Safety and Health Technician  
(Office Automation)

cc: Mr. Frank Linkous  
bcc: District 5  
C. J. Thomas  
OSRV  
Case file  
CJT: C. J. Thomas: cjt:10/04/04:file:2003-095-C de.1710:CJT:mb:10/04/2004

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