

August 10, 2005

In the matter of:
Scorpio Mining, Inc.
King #1 Mine
I.D. No. 46-08880

Petition for Modification

Docket No. M-2005-035-C

PROPOSED ORDER OF DISMISSAL

On April 7, 2005, Scorpio Mining, Inc. filed a petition pursuant to 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act), 30 U.S.C. Sec. 811(c), and 30 CFR 44 et seq., for the modification of the application of 30 CFR 75.364(b)(4), a mandatory safety standard.

On June 3, 2005 the United Mine Workers of America submitted comments on the above petition, requesting the petition be modified from its original form or denied.

On July 26, 2005, Scorpio Mining, Inc. filed a request for dismissal of the petition due to the mine being shut down and sealed.

Therefore, pursuant to the authority delegated by the Secretary of Labor to the Administrator for Coal Mine Safety and Health, Scorpio Mining Inc.'s Petition for Modification of 30 CFR 75.364(b)(4) to its King #1 Mine is hereby:

DISMISSED.

Any party to this action desiring a hearing on this matter must file in accordance with 30 CFR 44 within 30 days. The request for hearing must be filed with the Administrator for Coal Mine Safety and Health, 1100 Wilson Boulevard, Arlington, Virginia 22209-3939. 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 Order of Dismissal will become final.

Terry L. Bentley
Chief, Safety Division for
Coal Mine Safety and Health