

**May 12, 2006**

In the matter of:  
Bear Gap Coal Company  
No. 6 Slope  
I.D. No. 36-09296

Petition for Modification  
  
Docket No. M-2005-053-C

PROPOSED ORDER OF DISMISSAL

On July 6, 2005, a petition was filed seeking a modification of the application of 30 CFR 75.335(a)(1) to Bear Gap Coal Company's No. 6 Slope, located in Dauphin County, Pennsylvania.

On April 6, 2006, MSHA issued a Proposed Decision and Order (PDO) granting Petitioner's requested modification. On April 18, 2006, MSHA was notified that the No. 6 Slope had been sealed; as a result, the petition is not needed. Since this notification was received during the 30-day period after the PDO was issued and before it became a final decision, MSHA is issuing this revised PDO to dismiss Bear Gap Coal Company's request for modification.

Therefore, pursuant to the authority delegated by the Secretary of Labor to the Administrator for Coal Mine Safety and Health, Bear Gap Coal Company's Petition for Modification of the application of 30 CFR 75.335(a)(1) to its No. 6 Slope 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.

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.

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