

May 31, 2006

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

Petition for Modification
Docket No. M-2005-086-C

PROPOSED ORDER OF DISMISSAL

On December 22, 2005, Bear Gap Coal Company 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 49.2(b), to its Bear Gap Coal Company No. 6 Slope located in Dauphin County, Pennsylvania. The Petitioner alleged that the alternative method proposed in the petition would at all times guarantee no less than the same measure of protection afforded by the standard.

On April 17, 2006, MSHA's investigators reported that the underground anthracite mine had discontinued work due to a faulted coal vein and the mine had been sealed and permanently abandoned. Consequently, the modification is no longer need and the petition for modification should be dismissed.

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 30 CFR 49.2(b) to its Bear Gap Coal Company 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 22209-3939.

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