

January 4, 2007

In the matter of
Perry County Coal Corporation
HZ4-1 Mine
I.D. No. 15-02085

Petition for Modification

Docket No. M-2006-009-C

PROPOSED ORDER OF DISMISSAL

On March 28, 2006, Perry County Coal Corporation, LLC 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(a)(2), a mandatory safety standard. The petitioned standard requires that

(2) At least every 7 days, a certified person shall evaluate the effectiveness of bleeder systems required by 75.334

Petitioner proposed to relocate Checkpoints 5 and 5A, the locations of which were established by Proposed Decision and Order (PDO) M-88-005-C. In addition, Petitioner proposed to establish new checkpoints, identified as 5B through 5N, inclusive.

On July 3, 2006, an investigative report from Coal Mine Safety and Health District 7 was received in the Safety Division. Subsequent to Safety Division's receipt of the investigation report, MSHA learned that the operator has removed power to the fan and is in the process of permanently abandoning the mine. Therefore, the petition is not needed and should be dismissed without prejudice.

Therefore, pursuant to the authority delegated by the Secretary of Labor to the Administrator for Coal Mine Safety and Health, Perry County Coal Corporation's Petition for Modification of 30 CFR 75.364(a)(2) to its HZ4-1 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.

/signed/

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