

In the matter of
Alden Resources, LLC
Mine #3
I.D. No. 15-17691

Petition for Modification

Docket No. M-2007-063-C

PROPOSED ORDER OF DISMISSAL

On November 1, 2007, Alden Resources, LLC filed a petition pursuant to 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act), 30 U.S.C. § 811(c), and 30 C.F.R. § 44 et seq., for the modification of the application of 30 C.F.R. § 77.214(a) to Petitioner's Mine #3, located in Whitley County, Kentucky.

The petitioned standard, 30 C.F.R. § 77.214(a), Refuge Piles; general, states:

(a) Refuse piles constructed on or after July 1, 1971, shall be located in areas which are a safe distance from all underground mine airshafts, preparation plants, tipples, or other surface installations and such piles shall not be located over abandoned openings or steamlines

The petitioner sought modification to place refuse over the abandoned mine openings previously mined by Canfield Energy, Inc., Mine #4 (I.D. 15-17716). Canfield Energy, Inc., controlled by Gatliff Coal Company, had previously placed up to approximately 35 feet of refuse material over the six (6) Blue Gem coal bed openings. The petitioner has since installed 2 additional feet of refuse onto the existing refuse pile.

MSHA conducted an investigation of the petitioned mine and filed an investigation report on April 3, 2008. The investigation report included an examination of the refuse area, engineer drawings of the proposed refuse pile, copies of waste disposal permits issued by the State of Kentucky, pictures of the site, as well as information gathered from interviews with miners who had placed the refuse material over the mine openings. It could not be determined by the investigator that the mine portals were properly sealed and backfilled with a minimum of four (4) feet of non-acid-producing soil. It could also not be determined that the backfill of coarse refuse was installed in two foot loose lifts and compacted to a minimum Proctor dry density. After several discussions between MSHA and the petitioner, the petitioner has decided to withdraw the petition. On September 10, 2008 the petitioner requested to withdraw the petition by email with a letter attachment to be sent by registered mail. MSHA received the letter requesting the petition be withdrawn on September 16, 2008.

Alden Resources, LLC has agreed to remove any refuse they placed at the Canfield Energy, Inc.'s Mine No. 4 site (I. D. 15-17716). As a consequence, the modification is no longer needed, and should be dismissed.

Therefore, pursuant to the authority delegated by the Secretary of Labor to the Administrator for Coal Mine Safety and Health, Alden Resources, LLC's Petition for Modification of 30 C.F.R. § 77.214(a) to its Mine #3 is hereby:

DISMISSED.

Any party to this action desiring a hearing on this matter must file in accordance with 30 C.F.R. § 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 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 may 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.

Stephen J. Gigliotti
Chief, Safety Division for
Coal Mine Safety and Health