In the matter of
Baylor Mining, Inc.
Beckley Crystal Mine
I.D. No. 46-08829

Petition for Modification

Docket No. M-2003-027-C

PROPOSED DECISION AND ORDER

On April 7, 2003, a petition was filed seeking a modification of the application of 30 CFR 75.364(a) to Petitioner's Beckley Crystal Mine, located in Raleigh County, West Virginia.

MSHA determined that the petitioned area is not a worked out area and is best classified as designated return aircourse. Therefore, the petition is being treated as a request to modify the application of 30 CFR 75.364(b)(2).

The Petitioner alleges application of this standard will result in a diminution of safety to the miners and that the alternative method proposed in the petition will at all times guarantee no less than the same measure of protection afforded by the standard without unnecessarily exposing persons to hazardous conditions.

MSHA personnel conducted an investigation of the petition and filed a report of their findings and recommendations with the Administrator for Coal Mine Safety and Health. After a careful review of the entire record, including the petition and MSHA's investigative report and recommendation, this Proposed Decision and Order is issued.

Finding of Fact and Conclusion of Law

Application of 30 CFR 75.364(b)(2) to the subject mine will result in a diminution of safety to the miners and the special terms and conditions set out below will at all times provide a safe work environment to the miners.

The petitioner alleges approximately 700 feet of return aircourse in the 1st Left Section have become unsafe for mine examiners to travel. The petitioner has proposed an alternative method consisting of a certified person take weekly air quantity and quality measurements weekly at four monitoring stations (identified as EP No.3, EP No.4, EP No.5, and EP No.6) which will provide the miners a safe working environment.

MSHA's investigation confirmed that approximately 700 feet of the return aircourse in the 1st Left Section has deteriorated roof and roof falls rendering the aircourse unsafe for travel and essentially impractical to rehabilitate. The area also has water inflow through the strata that is being removed by a vertical borehole pump to the surface. MSHA determined weekly examinations at monitoring stations is adequate because there is little likelihood of accumulations of methane or oxygen deficient air in the petitioned aircourse due of its close proximity to the Main Mine Fan No. 2. In addition, the investigation also confirmed that the inlet and outlet monitoring stations were accessible. The monitoring stations were identified by the petitioner as evaluation points and assigned EP numbers in the petition's proposed alternative method and on the partial mine map submitted with petition. However to properly evaluate the aircourse, the locations of the monitoring stations (EPs) were moved during the investigation.

On the basis of the petition and the findings of MSHA's investigation, Baylor Mining, Inc. is granted a modification of the application of 30 CFR 75.364(b)(2) to its Beckley Crystal Mine.

ORDER

Wherefore, pursuant to the authority delegated by the Secretary of Labor to the Administrator for Coal Mine Safety and Health, and pursuant to Section 101(c) of the Federal Mine Safety and Health Act of 1977, 30 U.S.C., sec. 811(c), it is ordered that Baylor Mining, Inc.'s Petition for Modification of the application of 30 CFR 75.364(b)(2) in the Beckley Crystal Mine is hereby:

GRANTED, for the examination of approximately 700 feet of unsafe-to-travel return air course in the 1st Left Section from spad No.1839 to one block inby spad No. 1792 conditioned upon compliance with the following terms and conditions:

1. Four monitoring stations, (identified by the petitioner as EP No.3, EP No.4, EP No.5, and EP No.6) that will provide effective evaluation of air flow through the 1st Left Section shall be established as follows:

   (a) Three monitoring stations shall monitor the air entering the petitioned aircourse. EP No.4 shall be located inby the regulator between in the crosscut between Survey Station Nos. 1839 and

1840. EP No.5 shall be located inby the regulator between in the crosscut Survey Station Nos. 1794 and 1789. EP No.6 shall be located inby the regulator in the crosscut between and immediately west of Main Mine Fan No.2.

(b) One monitoring station shall monitor the air leaving the petitioned air course. EP No.3 shall be located in the heading inby Survey Station No. 1792. A minimum of 20,000 CFM shall be maintained at the EP No.3 monitoring station.

2. Signs showing the safe travel route to each monitoring station shall be conspicuously posted in an adjacent travel entry. The monitoring stations and routes of travel to the monitoring stations shall be kept free of water accumulations.

3. Weekly evaluations shall be conducted by a certified person at each of the monitoring stations. The evaluations shall include the quantity and quality of air entering or exiting the monitoring station. The evaluation shall also include a determination of the aircourse's leakage, defined and measured as stated in Paragraph 8 below. These air measurements shall be made using MSHA approved and calibrated hand-held multi-gas detectors to check the methane and oxygen gas concentrations and appropriate, calibrated anemometers to check airflow volume. Also, the permanent ventilation controls, on both the intake and return sides from the intake shaft inby toward the face area of 1st Left, will be examined and evaluated during the weekly examinations.

4. A diagram showing the normal direction of the airflow shall be posted at the monitoring stations. The diagram shall be maintained in legible condition and any change in air flow direction shall be reported to the mine foreman for immediate investigation.

5. The date, initials of the examiner, time, measured quantity and quality of air shall be recorded in a book, or on a date board, that shall be provided at the monitoring stations. Such results, including the condition of the accessible permanent ventilation controls creating the aircourse, shall also be recorded in a book kept on the surface and made accessible to

all interested parties.

6. All monitoring station(s) and approaches to monitoring station(s) shall, at all times, be maintained in a safe condition. The roof shall be adequately supported by roof bolts or other suitable means to prevent deterioration of the roof in the vicinity of the stations.

7. Methane gas or other harmful, noxious or poisonous gases shall not be permitted to accumulate in excess of legal limits for return air. An increase of 0.5 percent methane above the last previous methane reading or a 10 percent change in air flow quantity shall cause an immediate investigation of the affected area. The results of the investigation shall be immediately reported to the mine foreman.

8. The aircourse's initial leakage shall be determined during the first evaluation following implementation of this modification. Leakage is defined as the discrepancy between the air quantity entering and exiting the aircourse, as measured at the monitoring stations. A 10 percent change from the initial leakage in the aircourse shall cause immediate examination of all permanent ventilation structures. Damaged stoppings or other ventilation structures shall be repaired or replaced to minimize leakage. Following repairs a new “initial leakage” shall be determined and serve as the basis for subsequent evaluations.

9. The monitoring station location(s) shall be shown on the annually submitted mine ventilation map. The stations shall not be moved to another location without prior approval by the District Manager as a part of the Ventilation Plan for the mine.

10. Prior to implementing this modification, all mine personnel shall be instructed that, except along designated routes, no travel into the petitioned area shall be permitted and all other approaches shall be fenced off or barricaded with "DO NOT ENTER" warning signs. Entry in the area shall be permitted only to conduct investigations and correct problems with air flow detected through the monitoring process and all such work will be done under the supervision of an authorized person. All persons who work in the area shall be instructed in the emergency evacuation procedures and all provisions of 30 CFR 75.1502 and

75.383.

11. Within 60 days after this Proposed Decision and Order becomes final, the Petitioner shall submit proposed revisions for its approved 30 CFR Part 48 training plan to the Coal Mine Safety and Health District Manager. These proposed revisions shall include initial and refresher training regarding compliance with this Proposed Decision and Order.

Any party to this action desiring a hearing on this matter must file in accordance with 30 CFR 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 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 Decision and Order will become final and must be posted by the operator on the mine bulletin board at the mine.

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John F. Langton
Deputy Administrator for
Coal Mine Safety and Health