

JANUARY 07, 2005

In the matter of:  
Clintwood Elkhorn Mining Company  
Blair No. 1 Mine  
ID No. 44-07014  
And  
Blair No. 2 Mine  
ID No. 44-07032

Petition for Modification

Docket No. M-2004-042-C

PROPOSED DECISION AND ORDER

On September 21, 2004, a petition was filed seeking a modification of the application of 30 CFR 77.214(a) to the Petitioner's Blair No. 1 Mine (ID No. 44-07014) and Blair No. 2 Mine (ID No. 44-07032), located in Devils Branch of Knox Creek, Buchanan County, Virginia. The Petitioner proposes to utilize coarse coal refuse and scalp rock material to seal and reclaim a total of eight mine entries into the abandoned Blair No. 2 Mine and the soon-to-be-abandoned Blair No. 1 Mine. The Petitioner alleges that the alternative method outlined in the petition will at all time guarantee no less than the same measure of protection afforded by the standard.

MSHA personnel conducted an investigation of the petition on November 8, 2004, 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 recommendations, this Proposed Decision and Order is issued.

Findings of Fact and Conclusion of Law

The alternative method proposed by the petitioner will at all times guarantee no less than the same measure of protection afforded the miners under 30 CFR 77.214(a).

On the basis of the petition and the findings of MSHA's investigation, Clintwood Elkhorn Mining Company is granted a modification of the application of 30 CFR 77.214(a) to its Blair No. 1 Mine (ID No. 44-07014) and Blair No. 2 Mine (ID No. 44-07032). A copy of the petition has been posted on the mine's bulletin board to notify the miners of the proposal for the refuse area.

The alternative method calls for backfilling the two existing underground mine face-ups with four entries each into the Blair seam. The backfilling of the eight entries will not commence

until mining is completed in the Blair No. 1 Mine. The backfill material will be obtained from another adjacent underground mine to seal the entries and cover the coal seam with compacted non-combustible inert soil material.

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 Clintwood Elkhorn Mining Company's Petition for Modification of the application of 30 CFR 77.214(a), for the Petitioner's Blair No. 1 Mine (ID No. 44-07014) and Blair No. 2 Mine (ID No. 44-07032), is hereby:

GRANTED, for the modification of 30 CFR 77.214(a) with the following terms and conditions:

1. Prior to sealing the entries, sloughed overburden in front and to either side of the mine openings shall be removed to allow placement of suitable material for sealing.
2. A six-inch (6") PVC pipe with a wet seal shall be installed in the lowest entry. The wet seal shall be routed to the outside and beyond the limits of the backfill and coarse refuse. A graded rock filter shall be placed around the pipe and wrapped in filter fabric and shall extend through the impervious and refuse pile zone.
3. All eight mine openings shall be sealed in accordance with 30 CFR 75.1711, using non-toxic, non-combustible impervious soil material to ensure an airtight seal. The material shall be placed in a maximum of 12-inch lifts and compacted to 90% Proctor dry density.
4. Inert non-combustible soil material shall also be placed and compacted in 12-inch lifts and at a 2:1 slope over the sealed mine openings and along any exposed coal seam. This seal shall extend for four feet above any coal seam or four feet above any visible highwall cracks to ensure an impervious barrier.
5. Coarse refuse and scalp rock material shall be hauled, end-dumped, spread, and properly compacted in two-foot lifts over the sealed area and routinely tested for

uniform compaction.

Any party to this action desiring a hearing on this matter must file in accordance with 30 CFR 44.14, as 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 the 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 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