

March 17, 2005

In the matter of:
WA Mining, Inc.
Caretta No. 2 Mine
ID No. 46-08240

Petition for Modification

Docket No. M-2004-050-C

PROPOSED DECISION AND ORDER

On November 22, 2004, a petition was filed seeking a modification of the application of 30 CFR 77.214(a) to the Petitioner's Caretta No. 2 Mine (ID No. 46-08240), located in McDowell County, West Virginia. The Petitioner proposes to utilize coal preparation plant refuse and scalp rock material to backfill the existing mine portal face-ups. The backfill will eliminate the existing 60-foot highwall and reclaim four mine entries into the abandoned Caretta No. 2 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 January 4 and 25, 2005 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 (as amended by MSHA) 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, WA Mining, Inc. is granted a modification of the application of 30 CFR 77.214(a) to its Caretta No. 2 Mine (ID No. 46-08240). 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 petitioner's alternative method for backfilling the existing underground mine face-up with four entries did not provide specific construction criteria for the type and placement of

suitable materials. MSHA has added those criteria to the terms and conditions as requirements for granting the requested modification. The backfill material will be obtained from other locations at the underground mine to cover the sealed entries, the 20-inch drainage pipe in the lowest seal, and the exposed coal seam with compacted, non-combustible, inert 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 WA Mining, Inc.'s Petition for Modification of the application of 30 CFR 77.214(a) at the petitioner's Caretta No. 2 Mine (I.D. No. 46-08240) is hereby:

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

1. Prior to covering the sealed entries, sloughed overburden in front and to either side of the mine openings, along with other debris, shall be removed to allow placement of suitable material for sealing the exposed coal seam.
2. A 20-inch steel pipe with 3/8" wall thickness shall be installed from lowest entry (No. 2) wet seal. This 20-inch pipe shall contain and protect the existing 12-inch corrugated steel pipe that was installed for mine drainage when the interior mine seal was constructed. The wet seal drain 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; the pipe shall extend through the impervious and refuse pile zones.
3. All mine openings shall be sealed in accordance with 30 CFR 75.1711, using methods approved by the District Manager, and covered with non-toxic, non-combustible impervious 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 material shall also be placed and compacted in 12-inch lifts 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. The slope of the compacted fill will not exceed a ratio of two feet (2') horizontal to one foot (1') vertical in the backfilling of the mine face-up to eliminate as much of the 60-foot highwall as possible.

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.

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