

June 13, 2006

In the matter of:  
Hawthorne Coal Company, Inc.  
Hawthorne Preparation Plant  
ID No. 46-05544

Petition for Modification

Docket No. M-2005-056-C

PROPOSED DECISION AND ORDER

On June 25, 2005, a petition was filed seeking a modification of the application of 30 CFR 77.214(a) to the refuse pile at Petitioner's Hawthorne Preparation Plant, located in Upshur County, West Virginia. The Petitioner proposes to utilize coarse coal refuse material at Hawthorne's Reed Hollow Refuse Pile to seal and reclaim four mine openings of the abandoned Grand Badger Mine No. 1A. 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.

The petition consisted of a statement of eight items, a certificate of service, a proposed set of terms and conditions for implementing the alternative method of compliance, and two construction sketches. The proposed alternative method was interpreted to include elements of all of those documents.

Additional information was submitted April 10, 2006, which included an amended plan drawing of the refuse pile with hand notation of the location of a fifth east side mine opening at the abandoned portals of the Grand Badger No. 1A Mine, a mine map showing the underground mine workings of the Grand Badger mines Nos. 1 and 1A, and a detail drawing of the portal and seal locations for the abandonment plan permit D-184.

MSHA personnel conducted an investigation of the petition and filed a report of their findings 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, 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, Hawthorne Coal Company, Inc., is granted a modification of the

application of 30 CFR 77.214(a) at its Hawthorne Preparation Plant, ID No. 46-05544, Reed Hollow Refuse Pile. 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 removal of all sloughed overburden in front of the abandoned mine openings, exposing five portals into the abandoned Grand Badger Mine No. 1A, installing a drain pipe, then backfilling and sealing the portals and covering 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 Hawthorne Coal Company, Inc.'s Petition for Modification of the application of 30 CFR 77.214(a), for the Petitioner's Reed Hollow Refuse Pile at Hawthorne Preparation Plant, ID No. 46-05544, is hereby:

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

1. All sloughed overburden material shall be excavated and removed for a minimum of 12 feet in front and to either side of the mine openings to the abandoned Grand Badger Mine No. 1A. The length of the entire portal area where the coal seam was originally exposed shall be excavated to assure the coal seam is covered in conformance with paragraph 4 below.
2. A 12-inch high density polyethylene (HDPE) pipe, extending through the fill area, shall be installed to create a wet seal. A perforated end cap or equivalent shall be placed on each end of the pipe. The pipe shall be installed for a minimum of 25 feet into the existing open entry of the abandoned mine to prevent water from impounding in the mine voids. This pipe shall discharge into a constructed rock drain along the existing highwall. The rock drain shall be engineered for proper size, flow characteristics, strength, and chemical resistance. Detailed specifications for the HDPE pipe and the rock drain shall be submitted to the district manager for approval before construction is started.
3. The backfill material for the mine openings shall be clay or inert and impervious soil available at the site and non-combustible, and shall contain sufficient fines to ensure an airtight seal. The material shall be placed in accordance with 30 CFR 75.1711-2.

4. Clay or inert material shall be placed in 12-inch lifts, compacted to at least 95 percent of standard Proctor density, for at least 10 feet in width over and against the sealed mine openings and any exposed coal seam; and shall extend four feet above any seam or four feet above any visible highwall cracks to ensure an airtight seal.
5. Scalp rock or refuse material shall be placed in compacted 12-inch lifts over the sealed abandoned mine openings and reclaimed area and contoured in 2:1 slopes.
6. No water-impounding structures shall be constructed on the Reeds Hollow Refuse Pile over or near the sealed and covered abandoned mine openings.
7. In addition to the 12-inch high density polyethylene (HDPE) pipe installed in the most southern entry (abandoned fan entry) of the Grand Badger No. 1A mine portals, the proposed Wet Sealed entry (abandoned belt entry) of the No. 1 mine portals, located approximately 1000 feet north of the petitioned portals, shall be also be maintained as an alternative outlet for mine water accumulations. The drainage pipes in both sets of seals must extend beyond the refuse backfill and rock drain to allow mine drainage to be monitored and ensure the pipes are open. The mines are cut together underground and the visible and accessible wet seal drains must be monitored to assure that the buried 12-inch pipe and rock drain are fully functional.

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 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