

In the matter of:
Lone Mountain Processing, Inc.
Huff Creek No. 1 Mine
I.D. No. 15-17234

Petition for Modification

Docket No. M-2010-001-C

PROPOSED DECISION AND ORDER

On March 17, 2010, a petition was filed seeking a modification of the application of 30 C.F.R. § 75.364(b)(1) to the Petitioner's Huff Creek No. 1 Mine, located in Harlan County, Kentucky. The Petitioner alleges that examination of a belt intake aircourse of the mine, as shown on the attached map titled "Evaluation Point Request," presents a hazard to miners because of roof falls, floor heave and deteriorated roof conditions that prevent safe travel through the aircourses. Therefore, the Petitioner contends that 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.

The standard reads, in relevant part,

(b) *Hazardous conditions.* At least every seven days an examination for hazardous conditions at the following locations shall be made by a certified person designated by the operator:

(1) In at least one entry of each intake aircourse, in its entirety, so that the entire aircourse is traveled.

Petitioner's proposed alternative method provides for the installation of Atmospheric Monitoring System sensors at the beginning and ending of the affected area and regular examinations at designated evaluation points.

MSHA personnel conducted an investigation of the petition and filed reports 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 reports, this Proposed Decision and Order (PDO) is issued.

Findings of Fact and Conclusions of Law

The petitioner alleges that application of this standard will result in a diminution of safety to the miners performing required weekly examinations. Petitioner also alleges that the proposed alternative method would at all times guarantee no less than the same measure of protection afforded by the standard. Regarding the alleged diminution of safety, the petitioner states that deteriorating roof conditions, rib sloughage, and floor heave have created hazardous conditions for examiners who are required to travel the No. 1 intake aircourse from crosscut 71 (spad #21600) to crosscut 41 (spad #22941) of the A-Mains. This condition exists for a distance of approximately 2,800 feet (see attached Evaluation Point Request map). Likewise, attempting to rehabilitate this section of the air course would be hazardous to the miners. The petitioned area consists of one belt intake aircourse which splits into two parallel aircourses separated by permanent ventilation controls. Weekly examination of this air course is necessary to ensure that the ventilation system of the mine is functioning properly and that it is free of potentially dangerous conditions. In addition, regarding the proposed alternative method, Petitioner proposes to have a certified person take weekly air quantity and quality measurements and determine if the air is moving in its proper direction at the monitoring stations at crosscut 42 and crosscut 71, as shown on an attached map.

MSHA's investigation reports and subsequent discussions with the investigators revealed that approximately 19,000 cubic feet per minute (cfm) of intake air entered the petitioned aircourse at crosscut 71 and approximately 40,000 cfm exited this aircourse at crosscut 41. Air quality through the petitioned area was measured as 0.1% methane, 20.9% oxygen at crosscut 71 and 0.0% methane, 20.8% oxygen at crosscut 41. The air flowing through the petitioned area is coursed to the B-Mains belt and then used to ventilate the two active sections in this mine. Although the methane sample measured a low methane reading, the entire mine liberates 850,000 cubic feet of methane per day.

The petitioner requests that alert and alarm signals for oxygen be 19.4% and 19.0% respectively. 30 C.F.R. § 75.321(a)(1) requires that where men work or travel the oxygen level must be at least 19.5%. For the alarm signal to be set at the proposed level, men unknowingly could be working in violation of 75.321(a)(1). The proposed alert and alarm levels should be set at 20.0% and 19.5% respectively.

The methane levels of 1.5% and 2.0% proposed in the alert and alarm signals may be set too high. There are seals on the opposite side of the affected area. The air from these seals passes through the affected area and is used to ventilate the working faces of both mechanized mining units (MMUs). These seals are pre-shifted every 8 hours. Normal methane levels in this area are 0.0%. If methane levels start increasing, then a seal leakage problem could exist. These levels should be the same as those outlined in 75.321(b)(i),(ii), and (iii) which state what the operator shall do when methane levels

reach 1% in a working place, intake, or an air course where a belt conveyor is located. The proposed alert and alarm levels should be set at 0.5% and 1.0% respectively, to comply with this standard.

This PDO includes a condition that, upon changes of 0.3% methane or a 10% increase or decrease of the airflow quantity from the last recorded reading in the No. 1 intake air course, a certified person shall immediately investigate the affected area, take prompt remedial action, and notify the District Manager within 24 hours. This mine utilizes the No. 1 intake air course to ventilate two active working sections. Changes described above in the quality and quantity of the intake's airflow may signify leakage or failure of a seal which would directly affect the miners on the working sections.

In addition, MSHA determined, from its investigation, that the No. 1 air course could be traveled safely from crosscut 71 (spad #21600) to crosscut 53 (spad #21440). For this reason, compliance with the petitioned standard for this area would not result in a diminution of safety. However, due to severe bottom heaving and hazardous roof conditions in the area between crosscut 41 and 54, the No. 1 entry of the A Mains intake air course is inaccessible and compliance with the standard in this area would result in a diminution of safety. The distance that cannot be examined is approximately 1,100 feet. The air quantity at crosscut 54 was 25,321 cfm.

Regarding Petitioner's proposed alternative method MSHA finds that it would not at all times guarantee no less than the same level of protection as afforded by the standard. The No. 1 intake air course must be traveled and examined from crosscut 54 to crosscut 71 by a certified person for the purpose of detecting and correcting potential hazardous conditions before they become dangerous. Taking weekly air measurements and using Atmospheric Monitoring Systems will not detect potential hazardous conditions and, therefore, conditions that might be identified only by a certified person performing an examination would go undetected and uncorrected under the petition's proposed method. Performing weekly examinations for hazardous conditions in air courses ensures that conditions that could lead to a danger are detected and corrected.

Accordingly, MSHA finds that application of the petitioned standard to the subject mine in the area between crosscuts 41 and 54 will result in a diminution of safety to the miners and the special terms and conditions set out below will at all times provide the same level of protection as the standard. MSHA further finds that the proposed alternative method will not at all times guarantee no less than the same measure of protection afforded by the standard.

On the basis of the petition and the findings of MSHA's investigation, Lone Mountain Processing Inc. is hereby issued the following order for a modification of the application of 30 C.F.R. § 75.364(b)(1) to its Huff Creek No. 1 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. § 811(c), it is ordered that Lone Mountain Processing Inc.'s Petition for Modification of the application of 30 C.F.R. § 75.364(b)(1) in the Huff Creek No. 1 Mine is hereby:

GRANTED, for the evaluation of approximately 1,100 feet of A-mains between crosscuts 41 and 54 intake air course used to ventilate the active workings of the mine as shown on the Evaluation Point Request map, conditioned upon compliance of the following terms and conditions:

1. Two evaluation points shall be established for weekly evaluation of the affected area to assure effective airflow through the intake belt aircourse. The evaluation points shall be located at the following locations as shown on the Evaluation Point Request map to monitor air quality and quantity entering and exiting the hazardous area:
 - a. between #1 entry of A-Mains near spad #22941 and #1 crosscut of the No. 5 entry of B Mains No. 1 (EP 1) and,
 - b. in crosscut 54 at spad #21440 on the A-Mains panel (EP 2).
2. An Atmospheric Monitoring System (AMS) sensor shall be placed at each end of the aircourse at EP 1 and EP 2 to continuously monitor the quality of air in the affected area. The AMS shall meet the following requirements:
 - a. Whenever personnel are underground, the AMS must be operating and a designated AMS operator must be on duty at a location on the surface of the mine where audible and visual signals from the AMS must be seen or heard and the AMS operator can promptly respond to these signals.
 - b. When an AMS is used, the operator must comply with the requirements outlined in 30 C.F.R. § 75.351(a), (b), (c), (d), (e), (n), (o), (p), and (q). In addition, the AMS must:
 - i. Automatically provide visual and audible signals at the designated surface location when the oxygen, carbon monoxide, or methane concentration at any sensor reaches the alert level as

specified below. These signals must be of sufficient magnitude to be seen or heard by the AMS operator.

- ii. Automatically provide visual and audible signals at the designated surface location distinguishable from alert signals when the oxygen, carbon monoxide, or methane concentration at any sensor reaches the alarm level as specified in Item 2(e)(i). These signals must be of sufficient magnitude to be seen or heard by the AMS operator.
 - iii. Automatically provide visual and audible signals at all affected working sections and at all affected areas where mechanized mining equipment is being installed or removed when the oxygen, carbon monoxide, or methane concentration at any sensor reaches the alarm level as specified in Item 2(e)(i). These signals must be of sufficient magnitude to be seen or heard by miners working at these locations. Methane and oxygen signals must be distinguishable from other signals.
 - iv. Automatically provide visual and audible signals at other locations as specified in Mine Emergency Evacuation and Firefighting Program of Instruction (§ 75.1502) when the oxygen, carbon monoxide or methane concentration at any sensor reaches the alarm level as specified in Item 2(e)(i). These signals must be seen or heard by miners working at these locations. Methane and oxygen alarms must be distinguishable from other signals.
- c. Location and installation of AMS sensors:
- i. Oxygen sensors must be installed near the center in the lower third of the entry, in a location that does not expose personnel working on the system to unsafe conditions.
 - ii. AMS must be installed and maintained by personnel trained in the installation and maintenance of the system. The system must be maintained in proper operating condition.
 - iii. Sensors used to monitor for oxygen, carbon monoxide, methane, and smoke must be either of a type listed and installed in accordance with the recommendations of a nationally recognized testing laboratory approved by the Secretary; or these sensors

must be of a type, and installed in a manner, approved by the Secretary.

- d. The AMS shall be calibrated and maintained in accordance with the following:
 - i. Examination, testing, and calibration:
 - 1) Each oxygen sensor must be calibrated in accordance with the manufacturer's calibration specifications.
- e. The AMS sensors shall be located such that air flowing over the sensor is representative of the air flowing through the inaccessible intake aircourse.
 - i. The AMS sensors shall be capable of providing both visual and audible signals that will activate at the following levels:
 - 1) Alert signals
O₂: 20.0% CH₄: 0.5% CO: 5 ppm above established ambient levels
 - 2) Alarm signals
O₂: 19.5% CH₄: 1.0% CO: 10 ppm above established ambient levels
 - ii. If an AMS sensor indicates an alert signal, a qualified person shall be immediately dispatched to the affected area to determine the reason for the alert and what action must be taken to correct the condition. If it is determined that a fire exists, all persons not required for firefighting activities shall be evacuated from the mine.
 - iii. If an AMS sensor indicates an alarm signal, all persons inby that sensor in the same split of air shall be withdrawn to at least outby the next sensor not in alarm mode. All persons will remain at that location or be withdrawn from the mine until the reason for the alarm has been determined and action has been taken to correct the condition. If it is determined that a fire exists, all persons not required for firefighting activities shall be evacuated from the mine.

3. A certified person shall:
 - a. Examine each of the evaluation points at least every 7 days.
 - b. Perform visual examinations of the AMS sensors.
 - c. Evaluate and measure the quality and quantity and direction of air flowing past the evaluation points. Air quantity measurements shall be made using an appropriately calibrated anemometer. Air quality measurements shall be made using an MSHA-approved hand-held device and shall include tests for methane, oxygen deficiency, and carbon monoxide.
 - i. Changes of 0.3% methane or 10% change in the airflow quantity from the previous reading shall cause an immediate investigation of the affected area. Prompt remedial action shall be taken as needed.
 - ii. Any instance of changes as outlined in Item 3(c)(i) shall be reported to the MSHA District Manager within 24 hours.
 - d. Record the date, time, initials, and the measured quantity and quality of the air entering and exiting the affected area at each evaluation point. A date board shall be provided at each location for this purpose.
 - e. Record the results of each weekly examination in a book maintained on the surface. The certification, record keeping, and retention period requirements of 30 C.F.R. § 75.364(g), (h), and (i) shall be met. The record shall be maintained for at least 1 year.
4. A sign showing the safe travel route to each evaluation point shall be conspicuously posted in an adjacent travelable entry.
5. Methane gas or other harmful, noxious, or poisonous gases shall not be permitted to accumulate in excess of legal limits for intake air.
6. A diagram and/or enlarged map showing the normal direction of the airflow shall be posted at each evaluation point. The diagram shall be maintained in legible condition and any change in airflow direction shall be reported to the mine foreman for immediate investigation.

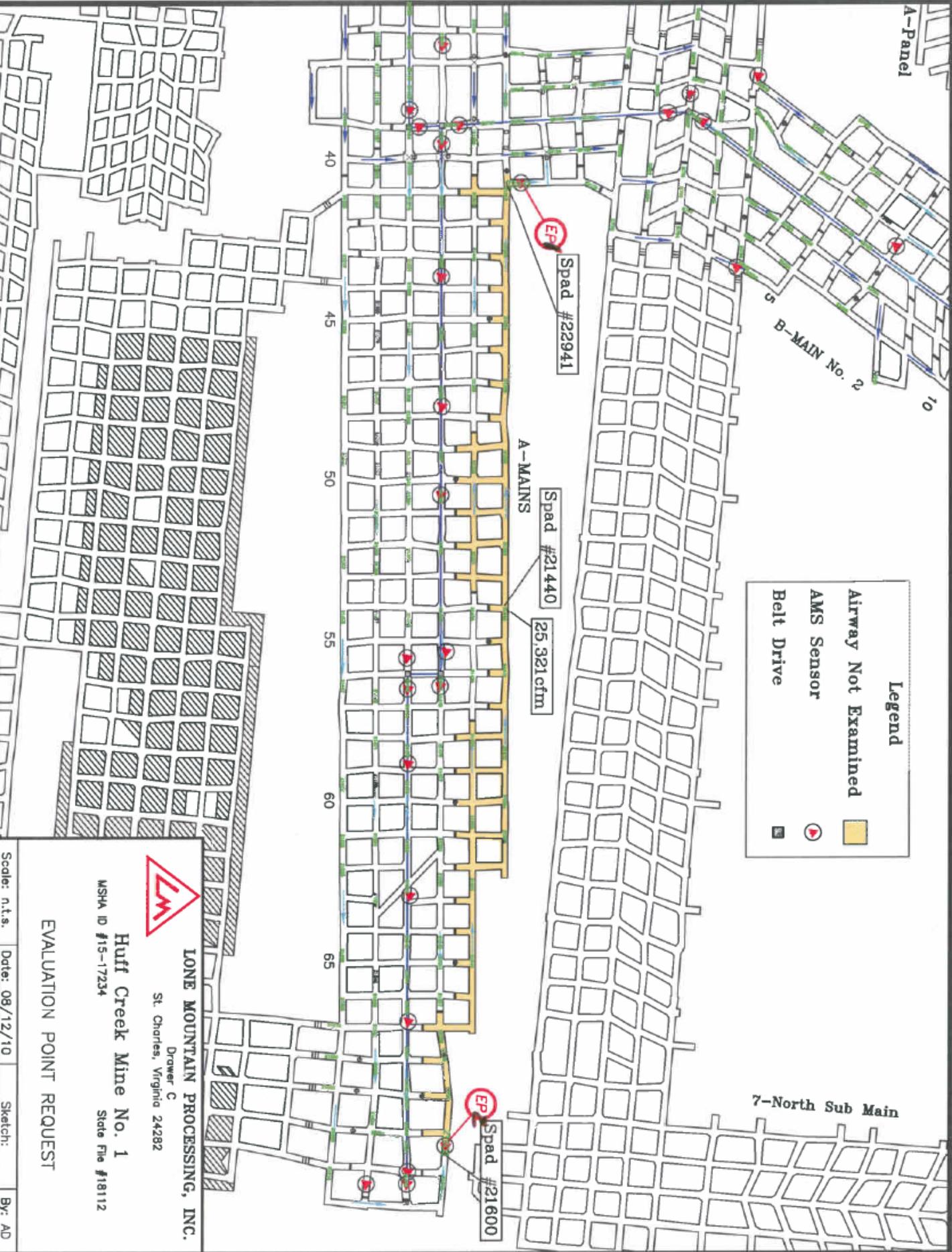
7. The permanent ventilation controls, evaluation points, and AMS sensor locations shall be shown on the annual ventilation map submitted in accordance with 30 C.F.R. § 75.372.
8. Evaluation points shall not be moved under this proposed Decision and Order without prior approval by the District Manager as a part of the Ventilation Plan for the mine.
9. All evaluation points and approaches to evaluation points shall be maintained in a safe condition at all times. The roof shall be adequately supported by suitable means to prevent deterioration of the roof in the vicinity of the evaluation points. Precautions shall be taken to ensure that water accumulations shall not impede airflow or travel to the evaluation points.
10. Prior to implementing this modification, all mine personnel shall be instructed that 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 airflow detected through the monitoring process. All such work shall 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 C.F.R. §§ 75.1502, 75.1504, and 75.1505.
11. Within 60 days after this Petition for Modification is granted, the Petitioner shall submit proposed revisions for their approved 30 C.F.R. § Part 48 training plan to the Coal Mine Safety and Health District Manager.
12. These proposed revisions shall specify initial and refresher training regarding the alternative method outlined in the petition and the terms and conditions stated in the Proposed Decision and Order. The procedures of 30 C.F.R. § 48.3 for approval of proposed revisions to already approved training plans shall apply.

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.

Charles J. Thomas
Deputy Administrator for
Coal Mine Safety and Health

Attachment



Legend

- Airway Not Examined
- ↻ AMS Sensor
- Belt Drive



LONE MOUNTAIN PROCESSING, INC.
 Drawer C
 St. Charles, Virginia 24282

Huff Creek Mine No. 1
 MSHA ID #15-17234
 State File #18112

EVALUATION POINT REQUEST

Scale: n.t.s.

Date: 08/12/10

Sketch:

By: AD