

In the matter of  
Lone Mountain Processing, Inc.

Petition for Modification

Darby Fork No. 1 Mine  
I.D. No. 15-02263

Huff Creek No. 1 Mine  
I.D. No. 15-17234

Clover Fork No. 1 Mine  
I.D. No. 15-18647

Docket No. M-2010-016-C

### PROPOSED DECISION AND ORDER

On March 3, 2010, a petition was filed seeking a modification of the application of 30 C.F.R. § 75.208 to Petitioner's Darby Fork No. 1, Huff Creek No. 1, and Clover Fork No. 1 mines located near Holmes Mill in Harlan County, Kentucky.

The standard states:

Except during the installation of roof supports, the end of permanent roof support shall be posted with a readily visible warning, or physical barrier shall be installed to impede travel beyond permanent support.

The Petitioner alleges 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.

On May 10, 2010, 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.

### Finding of Fact and Conclusion of Law

The current standard requires that a visible warning device or a physical barrier be installed to impede travel beyond the last row of permanent roof supports. The warning device or barrier gives advance warning to miners of an area of unsupported roof.

Prior to remote control continuous mining machines, the machine operator would mine until the controls reached the last row of permanent supports. Operation of the controls was from a canopied deck and usually involved a maximum exposure of 20 feet of

unsupported roof. Upon completion of the mining cycle, a device or marker was placed on the last row of permanent supports.

Each of the petitioner's mines currently utilize remote control continuous mining machines and have been approved with extended mining plans to allow up to 40 feet of unsupported roof. As part of the approval for extended mining plans, MSHA has adopted a series of precautions for remote control operation of continuous mining machines. One of the precautions states "While using remote controls, the continuous mining machine operator and all other persons will position themselves: No closer than the second "full row" of installed roof bolts outby the face". This precaution allows an additional measure of safety to the miners by giving an advance warning of an area of unsupported roof. The further distance also gives additional support in the event of a roof failure which may pull out the first row of permanent supports.

The petitioner proposes that, except during the installation of roof supports, the second row of permanent roof support outby unsupported roof shall be posted with a readily visible warning, or a physical barrier which will be installed to impede travel beyond permanent support.

The alternative method proposed by the Petitioner (as amended by the recommendations of MSHA) will at all times guarantee no less than the same measure of protection afforded the miners under 30 C.F.R. § 75.208.

On the basis of the petition and the findings of MSHA's investigation, Lone Mountain Processing, Inc. is granted a modification of the application of 30 C.F.R. § 75.208 to its Darby Fork No. 1, Huff Creek No. 1, and Clover Fork No. 1 Mines.

### 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. § 75.208 in the Darby Fork No. 1, Huff Creek No. 1, and Clover Fork No. 1 Mines is hereby:

GRANTED, conditioned upon compliance with the following terms and conditions:

1. Except during the installation of roof supports, the second row of permanent roof support outby unsupported roof shall be posted with a

readily visible warning or a physical barrier that will be installed to impede travel beyond permanent support.

2. 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. 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 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.

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