

In the matter of
M + H Coal Company
Mercury Slope
 (formerly Mercury Coal Company
 Eureka Tunnel Mine and
 Lykens Valley #4 Vein Slope)
 I.D. No. 36-01920

Petitions for Modification

Docket Nos.	M-1988-170-C
	M-1994-181-C
	M-1996-184-C
	M-1996-185-C
	M-1996-186-C
	M-2000-057-C
	M-2002-009-C

PROPOSED DECISION AND ORDER TO REVOKE

M + H Coal Company's Mercury Slope (formerly Mercury Coal Company's Eureka Tunnel Mine, Lykens Valley #4 Vein Slope) was granted modifications of the application of 75.1400 (Docket No. M-1988-170-C), 75.1002-1(a) (Docket No. M-1994-181-C), 75.1200(d) and (i) (Docket No. M-1996-184-C), 75.1202-1(a) (Docket No. M-1996-185-C), 75.335(a)(1) (Docket No. M-1996-186-C), 49.2(b) (Docket No. M-2000-057-C), and 75.1100-2(a)(2) (Docket No. M-2002-009-C). The modification for 30 CFR 75.1400 under Docket No. M-1988-170-C was issued January 24, 1989, and finalized March 6, 1989. The modification for 30 CFR 75.1002-1(a) under Docket No. M-1994-181-C was issued November 7, 1995, and finalized December 7, 1995. The modification for 30 CFR 75.1200(d) and (i) under Docket No. M-1996-184-C was issued November 24, 1997, and finalized December 24, 1997. The modification for 30 CFR 75.1202-1(a) under Docket No. M-1996-185-C was issued October 28, 1997, and finalized January 14, 1998. The modification for 30 CFR 75.335(a)(1) under Docket No. M-1996-186-C was issued September 10, 1997, and finalized October 10, 1997. The modification for 30 CFR 49.2(b) under Docket No. M-2000-057-C was issued December 1, 2000, and finalized December 31, 2000. The modification for 30 CFR 75.1100-2(a)(2) under Docket No. M-2002-009-C was issued June 28, 2002, and finalized July 28, 2002.

MSHA records indicate that underground workings of the mine were permanently abandoned and the surface openings to the mine sealed in 2003.

Finding of Fact and Conclusion of Law

MSHA **has** determined that **the** mining conditions have changed and that the modification is no longer necessary because the **underground workings of the Mercury Slope** have been permanently abandoned and the surface openings sealed. Therefore, modifications of 75.1400 (Docket No. M-1988-170-C), 75.1002-1(a) (Docket No. M-1994-181-C), 75.1200(d) and (i) (Docket No. M-1996-184-C), 75.1202-1(a) (Docket No. M-1996-185-C), 75.335(a)(1) (Docket No. M-1996-186-C), 49.2(b) (Docket No. M-2000-057-C), and 75.1100-2(a)(2) (Docket No. M-2002-009-C) are no longer needed at the **Mercury Slope**.

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 Health Act of 1977, 30 U.S.C. 811(c), it is ordered that **M + H Coal Company's** modifications of 30 CFR 75.1405 (Docket No. M-1975-037-C), 75.1400 (Docket No. M-1988-170-C), 75.1002-1(a) (Docket No. M-1994-181-C), 75.1200(d) and (i) (Docket No. M-1996-184-C), 75.1202-1(a) (Docket No. M-1996-185-C), 75.335(a)(1) (Docket No. M-1996-186-C), 49.2(b) (Docket No. M-2000-057-C), and 75.1100-2(a)(2) (Docket No. M-2002-009-C) as they apply to the **Mercury Slope** are hereby:

REVOKED.

Pursuant to 30 CFR 44.52, revocations of the granted modifications will become final 30 days after service of this Proposed Decision and Order to Revoke, unless a hearing is requested on the Decision and Order. 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 the 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 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 to Revoke will become final.

Terry L. Bentley
Chief, Division of Safety
Coal Mine Safety and Health