

In the matter of
Buck Mountain Coal Company
Buck Mountain Slope
I.D. No. 36-01962

Petition for Modification

Docket No. M-2002-048-C

PROPOSED DECISION AND ORDER

On May 30, 2002, a petition was filed seeking a modification of the application of 30 CFR 75.381 to Petitioner's Buck Mountain Slope, located in Schuylkill County, Pennsylvania.

The petitioner has notified MSHA of an intent to reopen an underground anthracite mining operation in which the remnant pillars of an old colliery are to be recovered. The sole access would be through a 100 year old rock tunnel. The mine would have a blowing ventilation system and the sole source of intake air would be through the rock tunnel. The surface outlet is through old mine workings which have been alleged to be unsafe since 1985. Petitioner alleges that making the outlet safe for travel will unnecessarily expose miners to danger in the efforts to re-support the travel way and provide ladders/steps for an alternative escapeway to the surface. The petitioner alleges there are no potential disruptions to egress from the mine through the rock tunnel.

The Petitioner alleges that the application of the standard would result in a diminution of safety to the miners and that an alternative escape route to the surface is unnecessary to provide the same measure of protection as the standard.

MSHA personnel conducted an investigation of the petition 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 recommendation, this Proposed Decision and Order is issued.

Finding of Fact and Conclusion of Law

Application of 30 CFR 75.381 to the subject mine will not result in a diminution of safety to the miners.

The petition provides no information to substantiate the claim that rehabilitating/re-supporting the alternative escapeway to the surface is more hazardous than the work of removing the remnant monkey and gangway pillars of the old colliery workings. In addition, the investigation determined that there are fire / smoke sources (battery locomotive, power and communications cable into the mine and sheds and other combustibles near the blowing fan on the surface) which could render the single intake airway unsafe for travel.

On the basis of the petition and the findings of MSHA's investigation, Buck Mountain Coal Company is not granted a modification of the application of 30 CFR 75.381 to its Buck Mountain 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 and Health Act of 1977, 30 U.S.C., sec. 811(c), it is ordered that Buck Mountain Coal Company's Petition for Modification of the application of 30 CFR 75.381 in the Buck Mountain Slope Mine is hereby:

DENIED.

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 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 Decision and Order will become final and must be posted by the operator on the mine bulletin board at the mine.

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