

June 6, 2007

In the matter of:
Long Branch Energy
Candice 2 Mine
ID No. 46-08429

Petition for Modification

Docket No. M-2006-086-C

PROPOSED ORDER OF DISMISSAL

On November 24, 2006, Mystic, LLC filed a petition pursuant to 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act), 30 USC 811(c), and 30 CFR 44 *et seq.*, for the modification of the application of 30 CFR 75.1700 to its Candice 2 Mine, located in Boone County, West Virginia. The petitioner alleged that the alternative method proposed in the petition would at all times guarantee no less than the same measure of protection afforded by the standard.

Petitioner sought a modification of 30 CFR 75.1700, Oil and gas wells, which states

Each operator of a coal mine shall take reasonable measures to locate oil and gas wells penetrating coalbeds or any underground area of a coal mine. When located, such operator shall establish and maintain barriers around such oil and gas wells in accordance with State laws and regulations, except that such barriers shall not be less than 300 feet in diameter, unless the Secretary or his authorized representative permits a lesser barrier consistent with the applicable State laws and regulations where such lesser barrier will be adequate to protect against hazards from such wells to the miners in such mine, or unless the Secretary or his authorized representative requires a greater barrier where the depth of the mine, other geologic conditions, or other factors warrant such a greater barrier.

Mystic, LLC proposed an alternative method of plugging oil and gas wells and a cut-through procedure in order to mine through such wells or to reduce the safety barrier size prescribed by the standard.

MSHA records indicate that, effective January 1, 2007, ownership of the Candice 2 Mine transferred to Long Branch Energy. A letter from Long Branch Energy to MSHA's District Manager dated March 6, 2007, stated that Long Branch Energy wished to withdraw the petition for modification of 30 CFR 75.1700 submitted by Mystic, LLC. As a result, the petition is not needed and should be dismissed.

Therefore, pursuant to the authority delegated by the Secretary of Labor to the Administrator for Coal Mine Safety and Health, the Petition for Modification of 30 CFR 75.1700 at Long Branch Energy's Candice 2 Mine is hereby:

DISMISSED

Any party to this action desiring a hearing on this matter must file in accordance with 30 CFR 44 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 Order of Dismissal will become final.

Stephen J. Gigliotti
Acting Chief, Safety Division
Coal Mine Safety and Health