

October 16, 2007

In the matter of:  
XMV, Inc  
Mine No. 35  
ID No. 46-08131

Petition for Modification

Docket No. M-2007-010-C

PROPOSED ORDER OF DISMISSAL

On March 12, 2007, XMV, Inc filed a petition pursuant to 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act), 30 U.S.C. § 811(c), and 30 C.F.R. § 44 *et seq.*, for the modification of the application of 30 C.F.R. § 75.364(b)(4), a mandatory safety standard.

On July 30, 2007, the Coal Mine Safety and Health, Division of Safety received a letter from the petitioner requesting the petition be withdrawn. An adjacent mine has completed mining operations and the separator seals between the two mines are no longer required. As a result, the petition is no longer needed. Therefore, pursuant to the authority delegated by the Secretary of Labor to the Administrator for Coal Mine Safety and Health, XMV, Inc's Petition for Modification of 30 C.F.R. § 75.364(b)(4) to its Mine No. 35 is hereby:

DISMISSED.

Any party to this action desiring a hearing on this matter must file in accordance with 30 C.F.R. Part 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.

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