

August 30, 2005

In the matter of:
Eighty-Four Mining Company
Mine 84
I.D. No. 36-00958

Petition for Modification

Docket No. M-2005-032-C

PROPOSED DECISION AND ORDER

On April 25, 2005, Eighty-Four Mining Company filed a petition seeking a modification of the application of 30 CFR 75.364(a) to the Petitioner's Mine 84, located in Washington County, Pennsylvania.

The petitioner originally requested a modification of 30 CFR 75.364(a) for an unsealed "worked-out area" that had become unsafe to examine to its fullest penetration. During MSHA's petition investigation, the location was reevaluated and determined to be an intake aircourse that ventilates a water collection/sump area near Number 18 Belt Dump. Therefore, the standard for which the modification is to apply was changed to 30 CFR 75.364(b)(1).

The Petitioner alleges that application of this standard will result in a diminution of safety to the miners and 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.

MSHA personnel investigated 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

Application of 30 CFR 75.364(b)(1) to the subject mine will result in a diminution of safety to the miners and the special terms and conditions will provide a safe work environment for the miners.

The petition involves the inability to examine the intake air course in its entirety because of adverse roof. The roof in the affected area has continued to deteriorate and the presence of

large roof falls in the area has made travel for the mine examiner or rehabilitation work dangerous or nearly impossible. The unsafe-to-travel area is the connecting crosscuts between three entries immediately inby the No. 18 Belt Dump. Instead of complying with the standard, the Petitioner proposes establishing two evaluation points, one at the inby end of the aircourse and one at the outby end of the aircourse, separated by less than 300 feet of unsafe-to-travel crosscuts and entry. Air quality and quantity will be measured weekly and a record kept of the examinations. The air flow is controlled by a single stopping and a regulator and there are no sources from which methane- or oxygen-deficient air can accumulate in the petitioned area.

MSHA's investigation and review of the area confirmed that the air course has adverse roof rendering it unsafe-for-travel. Supporting the roof in the area would expose the miners to additional hazards.

On the basis of the petition and the findings of MSHA's investigation, Eighty-Four Mining Company is granted a modification of the application of 30 CFR 75.364(b)(1) to its Mine 84.

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 Eighty-Four Mining Company's Petition for Modification for the application of 30 CFR 75.364(b)(1) to its Mine 84 is hereby:

GRANTED, for evaluation of the unsafe-for-examination intake air course segment (approximately 300 feet) near Number 18 Belt Dump, conditioned upon compliance with the following terms and conditions:

1. Monitoring stations that allow effective evaluation of the air entering and leaving this air course segment shall be established at the following locations:
 - a) Evaluation Point G will evaluate the airflow entering the petitioned area and shall be located in the entry at the terminus of 1 West Corridor.

- b) Evaluation Point H will evaluate the airflow exiting the petition area through the regulator in the third entry at the terminus of 1 West Corridor.
2. Weekly evaluations shall be conducted by a certified person at each of these monitoring stations. Each evaluation shall include measurement of the quality and quantity of air entering or leaving the monitoring station. Air quality measurements shall determine the methane, oxygen, and carbon monoxide concentrations using an MSHA-approved hand-held device. Air quantity measurements shall use an appropriate, calibrated anemometer. The weekly evaluations shall include an examination for hazards along the route(s) of travel to the monitoring stations and at the monitoring stations. Mine examiners shall be alert to indications of water accumulation and immediately report any indications of water that may accumulate in the inaccessible petitioned area.
3. A sign showing the safe travel route to each monitoring station shall be conspicuously posted in an adjacent travelable entry.
4. Methane gas or other harmful, noxious, or poisonous gases shall not be permitted to accumulate in excess of legal limits for intake air. An increase of 0.5 percent or more methane above the last previous reading or a 10 percent change in the air flow quantity shall cause an immediate investigation of the affected area.
5. A diagram and/or enlarged map showing the normal direction of the air flow shall be posted at each monitoring station. The diagram shall be maintained in legible condition and any change in airflow direction shall be reported to the mine foreman for immediate investigation.
6. The date, initials of the examiner, and time of examination shall be marked on a date board that shall be provided at each of the monitoring stations. The results of the examination shall be recorded in a book kept on the surface and made accessible to all interested parties.
7. All monitoring stations and approaches to monitoring stations shall, at all times, be maintained in a safe condition. The roof shall be adequately supported by roof bolts or other suitable means to prevent deterioration of the roof in the vicinity of the stations. Precautions shall be taken to ensure that

water accumulations do not impede airflow or travel to the monitoring stations.

8. The monitoring station locations and representative air quantity and quality measurements for each monitoring station location shall be shown on the annually submitted mine ventilation map (30 CFR 75.372). Station locations shall not be moved under this proposed Decision and Order without prior approval by the District Manager as a part of the Ventilation Plan for the mine.
9. Prior to implementing this alternative method, all personnel shall be instructed that no travel into the petitioned air course segment shall be permitted and all other approaches shall be fenced off or barricaded with "DO NOT ENTER" warning signs. Entry into the area shall be permitted only to investigate and correct significant problems with airflow detected through the monitoring process. All such work shall be done under the supervision of an authorized person. All persons who work in the area shall be instructed in the emergency evacuation procedures and all provisions of 30 CFR 75.1502 and §75.383.
10. Within 60 days after this Petition for Modification is granted, the Petitioner shall submit proposed revisions for their approved 30 CFR Part 48 training plan to the Coal Mine Safety and Health District Manager. These proposed revisions shall specify initial and refresher training regarding the alternative method outlined in the petition and the terms and conditions stated in the Proposed Decision and Order. The procedures of 30 CFR 48.3 for approval of proposed revisions to already approved training plans shall apply.

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
Deputy Administrator for
Coal Mine Safety and Health