

September 18, 2007

In the matter of
Stirrat Coal Company
Preparation Plant
I.D. No. 46-02515

Petition for Modification

Docket No. M-2007-015-C

PROPOSED DECISION AND ORDER

On May 4, 2007, a petition was filed by Summit Engineering Inc, on behalf of Stirrat Coal Company, seeking a modification of the application of 30 C.F.R. § 77.214(a) to allow backfilling of the mine bench and four (4) abandoned mine portals of the Stirrat Coal Company, No. 38 Mine (I. D. No. 46-07874) which has been in permanently abandoned status since June 23, 1994. The mine site will be backfilled using refuse from the Stirrat Coal Company Preparation Plant (I.D. No. 46-02515), located in Logan County, West Virginia.

The Petitioner alleges that the alternative method outlined in the petition will at all times guarantee no less than the same measure of protection afforded by 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, this Proposed Decision and Order is issued.

Findings of Fact and Conclusion of Law

The applicable standard, 30 C.F.R. § 77.214, Refuse piles, states:

(a) Refuse piles constructed on or after July 1, 1971, shall be located in areas which are a safe distance from all underground mine airshafts, preparation plants, tipples, or other surface installations and such piles shall not be located over abandoned openings or steamlines.

The petitioner requested the application of the safety standard be modified to allow the disposal of mine refuse as backfill of the portal area of the now-abandoned and sealed underground Mine No. 38. This disposal site is to be a refuse pile constructed over abandoned mine openings that have been properly sealed, with an appropriately sized drain through the lowest seal and continued through a compacted fill. The fill material is to be scalped rock from mine refuse, placed and compacted over the mine openings.

The alternative method proposed by the petitioner (as amended by MSHA) will at all time guarantees no less than the same measure of protection afforded the miners under 30 C.F.R. § 77.214(a).

On the basis of the petition and the findings of MSHA's investigation, Stirrat Coal Company is granted a modification of the application of 30 C.F.R. § 77.214(a) to allow placement of backfill material and coarse refuse at site I.D. No. WV04-02515-03 to cover four (4) sealed portal drift openings of the permanently abandoned Mine No. 38 (I.D. No. 46-07874).

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. § 811(c), it is ordered that Stirrat Coal Company's Petition for Modification of the application of 30 C.F.R. § 77.214(a) for the Preparation Plant is hereby:

GRANTED, to allow placement of backfill material and coarse refuse at site I.D. No. WV04-02515-3 to cover four (4) sealed portal drift openings of the permanently abandoned Stirrat Coal Company, Inc.'s Mine No. 38 (I.D. No. 46-07874) conditioned upon full compliance of the petitioner with the following terms and conditions:

1. All sloughed overburden material shall be removed for at least 12 feet in front of and to either side of the four (4) exposed mine openings to allow placement of backfill material for sealing. The coal seam between mine openings shall also be covered with backfill

material to seal the exposed coal from the later placement of course refuse.

2. A 12-inch outside diameter SDR-11 polyethylene pipe shall be installed in the entry with the lowest elevation and extended beyond the fill limits at no less than 3% grade. A separate rock underdrain shall be constructed along the front of the portal areas and extended beyond the fill limits. The rock underdrain shall be constructed using durable sandstone that will not dissolve or break down. At least the first 25 feet of the pipe shall be in the underground entry where it is to be backfilled with non-acid-producing soil. Perforated stand pipes shall be installed to ensure the pipe inlets are not blocked or covered by sloughing fill, roof, or material. In addition, shorter stand pipes with animal guards shall be installed to ensure the drain pipes remain full of water and the wet mine seal is maintained.
3. Backfill material shall be impervious, non-combustible and must contain enough fine material to ensure an airtight seal as it is placed in 2-foot lifts compacted to 90% Proctor dry density.
4. The backfill material shall be placed in the exposed portal areas:
 - (a) to a minimum thickness of 4 feet above the seal drift openings;
 - (b) to 4 feet above any visible cracks in the exposed highwall; and
 - (c) to at least 4 feet over and above any part of this and any other exposed coal seams.
5. The backfill material shall ensure an airtight seal for the coal seam prior to the placement of any scalp rock or coal mine refuse rock over the backfill area.
6. The placement of backfill material shall conform to the reclamation plan drawings and shall be sloped to maintain a 1.3 static safety factor for the mine opening backfill. The slope of the coal refuse

highwall fill shall not be steeper than 2:1 (H:V). Placement of topsoil and revegetation shall be done in accordance with the West Virginia Department of Environmental Protection (WVDEP) reclamation permit.

Any party to this action desiring a hearing on this matter must file in accordance with 30 C.F.R. § 44.14, as 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 will become final and must be posted by the operator on the mine bulletin board at the mine.

Terry L. Bentley
Acting Deputy Administrator for
Coal Mine Safety and Health