

June 6, 2007

In the matter of  
Excel Coal Company  
Three S Slope  
I.D. No. 36-09309

Petition for Modification  
  
Docket No. M-2006-059-C

PROPOSED DECISION AND ORDER

On June 6, 2006, a petition was filed seeking a modification of the application of 30 CFR 75.1200(d) and (i) to Petitioner's Three S Slope, located in Northumberland County, Pennsylvania. The petitioned standard states, in relevant part,

The operator of a coal mine shall have...an accurate and up-to-date map of such mine drawn on scale. Such map shall show:...

- (d) Contour lines of all elevations;...
- (i) Mines above or below;

Petitioner proposes to use cross-sections in lieu of contour lines on mine maps and to limit the mapping of mine workings above and below the vein(s) being mined to those within 100 feet. 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.

Finding of Fact and Conclusion of Law

Excel Coal Company's Three S Slope is developed on the south dip of the Lykens #2 Vein. Due to the steep pitch of the anthracite vein, the use of contour lines on the mine map would not provide meaningful information and would make some parts of the map illegible. MSHA's investigation revealed that the rock strata thickness between the Lykens #2 and the adjacent veins are in excess of 200 feet and determined there are no connections to adjacent mines. Historically, no known hazards have been

associated with mining within 100 feet of adjacent workings that were not interconnected by rock tunnels.

The alternative method proposed by the Petitioner (as amended by the recommendations of MSHA) will at all times guarantee no less than the same measure of protection afforded the miners under 30 CFR 75.1200(d) and (i). On the basis of the petition and the findings of MSHA's investigation, Excel Coal Company is granted a modification of the application of 30 CFR 75.1200(d) and (i) to its Three S 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 Excel Coal Company's Petition for Modification of the application of 30 CFR 75.1200(d) and (i) in its Three S Slope is hereby:

GRANTED, for the use of cross sections in lieu of contour lines and limiting the mapping of mines above or below this mine to those within 100 feet of the vein being mined, conditioned upon compliance with the following terms and conditions:

1. A search by a registered engineer or surveyor of all available mapping, including cross sections, shall be conducted to determine the spacing between veins and the proximity of the projected and existing workings of the mine to other workings of adjacent mines. A hazard analysis shall be done when mapping indicates the presence of known or potentially flooded workings.
2. The map shall show cross section(s) through the slope, at locations of rock tunnels between veins, and along gangways at 1,000-foot intervals. The mapping provided shall show the cropline of the vein being mined.
3. Where adjacent workings are located within 1,000 feet of the projected limit(s) of the same vein being mined, those workings shall be mapped, the potential water/gas hazard shall be evaluated, and a revised

drilling program, if needed, shall be established under 30 CFR 75.388.

4. Where projections include mining through into inaccessible areas of the same vein or adjacent vein(s) and the conditions cannot be determined, a plan detailing the operation shall be submitted under 30 CFR 75.389 for approval by the district manager.
5. Prior to recovering pillars known to be below the water level elevation in adjacent workings, a revised recovery plan shall be submitted under 30 CFR 75.220(a)(1) for approval by the district manager.
6. When vein(s) within 100 feet above or below the vein being mined are interconnected by rock tunnels to other veins, all interconnected vein mapping shall be provided to within 1,000 feet of the active workings.
7. Prior to mine development within 200 feet of known flooded abandoned workings in the same vein, a plan, under the provisions of 30 CFR 75.389, must be submitted and approved by the MSHA District Manager.
8. Prior to the removal of pillars below the water level table and in the vein being mined, when a separation between veins is less than 100 feet and the adjacent vein is known to be flooded, a revised roof control plan shall be submitted and approved prior to pillar recovery.
9. Within 60 days after this Proposed Decision and Order becomes final, the Petitioner shall submit proposed revisions for its approved 30 CFR Part 48 training plan to the Coal Mine Safety and Health District Manager. The proposed revisions shall include initial and refresher training regarding compliance with the Proposed Decision and Order.

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.

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.

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Melinda Pon  
Acting Deputy Administrator for  
Coal Mine Safety and Health