

March 6, 2008

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

Petition for Modification

Docket No. M-2007-064-C

PROPOSED DECISION AND ORDER

On October 22, 2007, a petition was filed by P & A Engineers and Consultants, 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 two (2) mine benches and six (6) abandoned mine portals (three portals on either side of Peach Orchard Branch for two mines with no mapped underground connecting entries on the Williamson Coal Seam) and covering the site with mine refuse. The resulting refuse pile is to be identified as WV04-02515-02. Both mine(s) completed working in 1988 and were sealed. The abandonment drainage system for the mine(s) and the seal construction were certified as having met technical requirements of the plan provided to the State of West Virginia Department of Energy by a Registered Professional Engineer on September 20, 1988. The mine(s) were last operated by W-P Coal Company and no MSHA identification numbers were provided. The initial petition did not provide sufficient factual information to allow evaluation of the proposed alternative method and additional information was requested by telephone. On December 6, 2007, the petitioner submitted additional information to the petition investigators in MSHA District 4. However, the supplemental information shows the underground mine workings as two separate mines and not as two sets of portals for a single mine as originally described, using a single mine name (W-P 30). That information also claimed that the W-P 30 mine would not drain or impound water because it was drained by abandoned mine workings on the Alma Seam 35 feet below. No information as to whether the lower coal seam discharged water or where it discharged was provided. The information provided was found to be incomplete and MSHA's investigators required further clarification by letter dated December 20, 2007. On January 18, 2008, the petitioner submitted a program to excavate the mine portal openings and establish that the mine benches at the openings had been cleaned; the exposed coal had been covered

by impervious, non-combustible material; the mine openings were properly sealed; the mine benches had been backfilled with impervious and non-combustible material; and the lowest opening in each set of portal openings was provided with a durable pipe sized to drain mine water and assure no buildup of water in the mine or discharge into the refuse pile. Once the mine benches have been excavated, proper cover of the openings has been assured, and the mine workings sealed and equipped with appropriate drains, the 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 guarantees 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 and recommendations, 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 standard be modified to allow the disposal of mine refuse covering the backfill of the portal area of the now-abandoned and sealed underground mine (W-P 30). This disposal site is to be a refuse pile constructed over abandoned mine openings that have been properly sealed, with appropriately sized drains through the lowest seals and continued through a compacted fill. The fill material is to be verified as impervious, non-combustible material (surface spoil) and covered by a properly constructed refuse pile of scalped rock and coal

lines from the mine preparation plant. There are no steam lines to be buried on the backfilled mine bench or under the constructed refuse pile.

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 from the Preparation Plant (I.D. No. 46-02515) at site I.D. No. WV04-02515-02 to cover six (6) sealed portal drift openings of the permanently abandoned W-P 30 mine(s).

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 refuse disposal from the Preparation Plant (I.D. No. 46-02515) at the mine benches of the abandoned W-P 30 mine(s) is hereby:

GRANTED, to allow placement of backfill material and coarse refuse at site I.D. No. WV04-02515-2 to cover six (6) sealed portal drift openings of the permanently abandoned W-P 30 Mine(s) 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 six (6) exposed mine openings to allow placement of backfill material for sealing.
2. A 12-inch outside diameter SDR-17 high-density polyethylene pipe shall be installed in the entry with the lowest elevation on each side of the hollow and each pipe shall extended beyond the mine bench fill limits and beyond the toe of the covering refuse pile. 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 standpipes shall be installed to ensure the pipe inlets are not blocked or covered by sloughing fill, roof, or material. In addition, shorter standpipes with animal guards shall be installed to ensure the drain pipes remain full of water and the wet mine seal is maintained. These mine water drains shall not discharge into the refuse pile underdrain system. A separate rock underdrain shall be constructed on the original creek bed and extend the full length of the refuse pile and covered portal areas and extended beyond the mine bench and refuse pile fill limits. This underdrain shall be designed and sized to ensure the refuse pile does not impound water from the watershed area above the refuse pile. The rock underdrain shall be constructed using durable sandstone that will not dissolve or break down.

3. Backfill material shall be sampled by excavation along portal face-ups and confirmed to be impervious, non-combustible, and contain enough fine material to ensure an airtight seal as it is placed in 2-foot lifts compacted to 90% Proctor dry density. Any materials found not to meet these parameters must be removed and replaced.
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 not exceed a 1:1 slope (horizontal: vertical) or 1.3 static safety

factor for the mine opening backfill. 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