

In the matter of
Guest Mountain Mining Corporation
Mine No. 4
I.D. No. 44-05815

Petition for Modification

Docket No. M-2008-045-C

PROPOSED DECISION AND ORDER

On September 22, 2008, a petition was filed by Guest Mountain Mining Corporation seeking a modification of the application of 30 C.F.R. § 77.214(a) to Petitioner's Mine No. 4, located in Wise County, Virginia. 30 C.F.R. § 77.214(a) states, in relevant part:

Refuse piles....shall not be located over abandoned openings or steamlines.

Petitioner proposes to use scalped rock (underground development waste, partings, and draw rock/laminated shale roof rock) from the active Mine No. 4 to cover the portal openings of the abandoned Guest Mountain Mining Corporation Mine No. 3, MSHA I.D. No. 44-07069. The proposed refuse fill will consist of a combination of scalped rock and non-combustible rock riprap that will ensure the openings will drain freely and not impound water and will not affect the stability of the refuse fill.

The Petitioner alleges that the alternate 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 on December 3, 2008 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

Petitioner is requesting that the standard be modified to allow the use of scalped rock (underground development waste, partings, and draw rock/laminated shale roof rock) to backfill and cover the openings of the now-abandoned Guest Mountain Mining Corporation's Mine No. 3. Since scalped rock is considered refuse, a petition for modification is needed.

The alternative method set forth in this Proposed Decision and Order will at all times guarantee the same measure of protection afforded miners under 30 C.F.R. § 77.214(a), in that the refuse fill will consist of a combination of scalped rock and non-combustible rock riprap that will ensure the openings will drain freely and not impound water and will not affect the stability of the refuse fill.

Compliance with this Order entitles Guest Mountain Mining Corporation to a modification of the application of 30 C.F.R. § 77.214(a) to its Mine No. 4.

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 a modification of the application of 30 C.F.R. § 77.214(a) to Guest Mountain Mining Corporation's Mine No. 4, as it pertains to sealing abandoned mine openings and reclaim the mine highwall with mine refuse at the Guest Mountain Mining Corporation's Mine No. 3, is hereby:

GRANTED, conditioned upon compliance with the following terms and conditions:

1. All sloughed overburden material shall be removed from in front of and to either side of the exposed mine openings for the entire length of the highwall to allow placement of backfill material for sealing.
2. The backfill material used to cover and seal the coal seam and the mine openings shall be a noncombustible, impermeable, alkaline mine spoil material. Lab testing shall be performed on the spoil material to ensure non-combustibility. The lab results shall be made available to Authorized Representatives of the Secretary. The backfill sealing material shall contain enough fine material to ensure an airtight seal as it is placed in 2-foot lifts compacted to 90% Proctor dry density. The backfill / seal material shall extend a minimum of 25 feet into the number 1, number 2 and number 3 mine portal opening and be at least 5 feet above the top of the coal seam on the highwall. The slope of the backfill sealing material shall not exceed 1:1. The mine scalp rock / refuse shall also be placed in 2-foot lifts over the impermeable seal and compacted. The slope of the combined fill shall not exceed 2:1(horizontal: vertical).
3. A 12-inch outside diameter perforated high-density polyethylene pipe shall be placed in the number 4 portal entry (the lowest portal entry) and extend a

minimum of 25 feet into the number 4 entry. The 12-inch diameter pipe shall extend beyond the mine bench fill limits and beyond the toe of the covering refuse pile.

4. A rock drain, 3 feet wide and 4 feet high with filter cloth, shall be placed in the number 4 portal entry in addition to the drain pipe. The rock placed in the drain shall have a Slake Durability Index (SDI) of 90 or greater.
5. Upon completion of the fill face, top soil material shall be applied and the area seeded with an approved seed mix shown in the Virginia DMLR permit.
6. Each stage of the development shall be verified by MSHA.

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 may 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.

Charles J. Thomas,
Acting Deputy Administrator for
Coal Mine Safety and Health