

In the matter of
INR-WV Operating LLC
Saunders Prep Plant
I.D. No. 46-02140

Petition for Modification

Docket No. M-2009-049-C

PROPOSED DECISION AND ORDER

On October 7, 2009, a petition was filed seeking a modification of the application of 30 C.F.R § 77.214(a) to INR-WV Operating LLC's Saunders Prep Plant, located in Logan County, West Virginia. The Petitioner alleges that the proposed alternative method will at all times provide the same measure of protection as the standard.

The standard reads, in relevant part:

- (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.

Petitioner proposes an alternative method of backfilling 18 abandoned mine portals within the limits of the North Fork Coal Refuse Facility. The openings are associated with the Buffalo Mining Company's No. 8-C Mine in the Upper Winfred coal seam, and the Tri-Energy Resources, Inc., No. 3 Mine and Hart-Hat Coal Company's Mine No. 3 in the Buffalo Creek coal seam. The No. 8-C Mine was abandoned in 1983 and the No. 3 Mine and Mine No. 3 were abandoned in 1992. The refuse pile is an extension of North Fork Coal Refuse Disposal Facility, ID No. WV04-02140-01, located at North Fork of Buffalo Creek, Logan County, West Virginia.

On April 8, 2010, 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 Petitioner claims that this alternative method is necessary because the existing mine openings will be covered during the construction of the North Fork Coal Refuse Disposal Facility. This refuse pile is an extension of North Fork Coal Refuse Disposal

Facility, ID No. WV04-02140-01, which was previously granted a Proposed Decision and Order, Docket No. M-2008-044-C, allowing the backfill of five previously abandoned mine openings. The Petitioner projects the final elevation of the refuse pile to be approximately 2300 feet, which would affect the mine openings identified in this proposal. By effectively cleaning the mined area, installing adequate drainage, and sealing the mine openings, the Petitioner alleges that the alternative method will at all times provide the same measure of protection as the standard.

MSHA's investigation found that there are five sets of mine entries consisting of 18 mine openings in two coal seams within the footprint of INR's North Fork Refuse Area. The Upper Winifrede coal seam has an approximate elevation of 2120 feet and contains ten openings. The Buffalo Creek coal seam has an approximate elevation of 2200 feet and contains eight openings. Both coal seams dip in the northwest direction. Due to the coal seams being located in upper elevations of the watershed, the potential for discharge is minimized. In addition, no steamlines would be buried on the backfilled mine bench or under the constructed refuse pile.

MSHA's investigation also confirmed that the mine openings are associated with abandoned mines. Only a few of the openings are currently exposed, with most of these openings being sealed. Additionally, the mine openings within the footprint of the refuse area were dry and are located down-dip from the mined areas. Because the existing mines are abandoned, the condition of these mines should not change.

These mines openings also would be backfilled with earthen material that will extend 25 feet into the mine and at least 4 feet in all directions beyond the limits of the opening. Any exposed coal seam along the bench would be covered with soil to at least 4 feet above the seam. Furthermore, the mine openings would have a sandstone rock riprap underdrain wrapped in a filter fabric installed from the main rock underdrain in the refuse area to each set of mine openings. A 12-inch, SDR-11 high-density polyethylene pipe would be installed in the mine opening with the lowest elevation at each set of mine entries. The combination of the underdrain and pipe would serve to handle localized drainage. These drainage control measures should minimize the potential for water to accumulate behind the earthen seals.

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 INR-WV Operating LLC's Petition for Modification of the application of 30 C.F.R § 77.214(a) for refuse disposal from the Saunders Prep Plant (I.D. No. 46-02140) at the mine benches

of the abandoned Buffalo Mining Company's No. 8-C Mine in the Upper Winfred coal seam and the Tri-Energy Resources, Inc., No. 3 Mine and Hart-Hat Coal Company's Mine No. 3 Mines is hereby:

GRANTED, to allow placement of backfill material and coarse refuse at site I.D. No. WV04-02140-01 to cover ten (10) sealed portal drift openings of the permanently abandoned Buffalo Mining Company's No. 8-C Mine, four (4) openings of the permanently abandoned Hart-Hat Coal Company, Inc.'s Mine No 3, and four (4) openings of the Tri-Energy Resources, Inc.'s No. 3 Mine, 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 eighteen (18) exposed mine openings to allow placement of backfill material for sealing.
2. A 12-inch outside diameter SDR-11 high-density polyethylene pipe shall be installed in the entry of the Hart-Hat Coal Company, Inc., Mine No. 3 with the lowest elevation on the southwest side of the North Fork of Buffalo Creek, and shall extend beyond the mine bench fill limits and tie into the sandstone rock riprap underdrain system. At least the first 25 feet of the pipe shall be extended into the underground entry.
3. A 12-inch outside diameter SDR-11 high-density polyethylene pipe shall be installed in the entry of the Tri-Energy Resources, Inc., No. 3 Mine with the lowest elevation on the north east side of the North Fork of Buffalo Creek; the pipe shall extend beyond the mine bench fill limits and tie into the sandstone rock riprap underdrain system. At least the first 25 feet of the pipe shall be extended into the underground entry.
4. A 12-inch outside diameter SDR-11 high-density polyethylene pipe shall be installed in the entries of the Buffalo Mining Company's No. 8-C Mine with the lowest elevation on:
 - (a) the southwest side of the North Fork of Buffalo Creek (two sets of entries will require two separate pipes);
 - (b) the northeast side of the North Fork of Buffalo Creek (one set of entries).

The pipes shall extend beyond the mine bench fill limits and tie into the sandstone rock riprap underdrain system. At least the first 25 feet of the pipe shall be extended into the underground entry.

5. The higher elevation mine openings without drainpipe, located at or above the bottom elevation of the underdrain for the refuse area, shall have a sandstone rock riprap underdrain wrapped in filter fabric installed from the mine opening to the underdrain. Perforated standpipes shall be installed to ensure the pipe inlets are not blocked or covered by sloughing fill, roof, or material.
6. 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.
7. Backfill material shall 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. Backfill material used to seal mine openings will be non-acid producing soil. Any materials found not to meet these parameters must be removed and replaced.
8. 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.
9. 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.
10. 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 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 Order will become final and must be posted by the operator on the mine bulletin board at the mine.

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