In the Matters of:

PRAIRIE STATE GENERATING CO. / LIVELY GROVE MINE, 
Petitioner, 
v. 
MINE SAFETY AND HEALTH ADMINISTRATION, 
Party Opposing Petition.

ORDER APPROVING CONSENT AGREEMENT

These matters arise in connection with petitions for modification of 30 C.F.R. §§ 75.500(d) and 75.507-1(a) filed by operator Prairie State Generating Company (“Petitioner”) pertaining to the use of battery-powered non-permissible surveying equipment at the Lively Grove Mine located in Washington County, Illinois (Mine ID 11-03193). The Mine Safety and Health Administration (“MSHA”) denied the petitions on September 24, 2013 and the matters were referred to the Office of Administrative Law Judges for hearing.¹

On October 3, 2017, I issued Order Holding Matters in Abeyance, upon notice that a decision was forthcoming in a related case before the U.S. Court of Appeals for the District of Columbia Circuit, which might facilitate settlement discussions in the instant matters.

¹ The following cases were eventually assigned to the undersigned and consolidated pursuant to 20 C.F.R. § 18.43(a), based on a common question of fact: 2014-MSA-00001; 2014-MSA-00004; 2014-MSA-00008; 2014-MSA-00017; 2014-MSA-00010; and 2014-MSA-00012. However, the latter two cases, which concerned Gateway Mine, Mine ID No. 11-02408, were the subject of an unopposed Motion to Withdraw filed by Peabody Midwest Mining on May 30, 2017. On June 1, 2017, I issued an Order Granting Withdrawal of Request for Hearing severing 2014-MSA-00010 and 2014-MSA-00012 from the instant consolidated proceeding and dismissing those two cases. Cases 2014-MSA-00008 and 2014-MSA-00017 pertain to the Francisco Underground Pit, Mine ID No. 12-02295, operated by Peabody Midwest Mining Company, and are hereby severed.
On June 13, 2019, Petitioner filed a properly executed Consent Agreement and Order (“Consent Agreement”), signed by counsel for Petitioner and counsel for the MSHA. Per the Order, the MSHA grants the petitions for modification, under the conditions specifically provided for in paragraph 11 of the Consent Agreement.

Having reviewed the submitted documentation, I find that the Consent Agreement is appropriate in form and substance and clearly details the respective duties and obligations of the parties. Further, the Consent Agreement lists the required findings as specified in the cited regulations. See 30 C.F.R. § 44.27(b). Accordingly, the signed Consent Agreement is incorporated by reference into this Decision and Order and is hereby ADOPTED AND APPROVED.

The parties having resolved all pending issues, and having approved their Consent Agreement and Order, the Order Holding Matters in Abeyance is VACATED, and the instant matters are hereby DISMISSED. This Order constitutes final agency action.

SO ORDERED:

STEPHEN R. HENLEY
Chief Administrative Law Judge