

In the matter of
Bowie Resources, LTD
Bowie #3 Mine
I.D. No. 05-04758

Petition for Modification

Docket No. M-2003-071-C

PROPOSED ORDER OF DISMISSAL

On September 23, 2003, Bowie Resources, LTD filed a petition pursuant to 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act), 30 U.S.C. sec. 811(c), and 30 CFR 44 et seq., for the modification of the application of 30 CFR 75.701, to it's Bowie #3 Mine, located in Delta County, Colorado.

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. MSHA reviewed the applicable provisions of the Mine Act and the regulations and concluded that if a petition for modification for a diesel generator set is granted under 30 CFR 75.901 it is not necessary for 30 CFR 75.701 to be modified as well. This is because if the generator sets are properly grounded in accordance with 30 CFR 75.901 they have met the requirements of 75.701.

If generator sets are properly grounded in accordance with a modification of 30 CFR Section 75.901, they are "grounded by methods approved by an authorized representative of the Secretary", they are in compliance with Section 75.701, and do not need to be modified.

Therefore, pursuant to the authority delegated by the Secretary of Labor to the Administrator for Coal Mine Safety and Health, Bowie Resources, LTD's, petition for modification of 30 CFR 75.701 to its Bowie #3 Mine is dismissed without prejudice.

Any party to this action desiring a hearing on this matter must file in accordance with 30 CFR 44 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 of Dismissal will become final.

Terry L. Bentley
Chief, Division of Safety
Coal Mine Safety and Health