

August 10, 2005

In the matter of:  
Foundation Coal West  
Belle Ayr Mine  
ID No. 48-00732  
Eagle Butte Mine  
ID No. 48-01078

Petition for Modification  
  
  
  
Docket No. M-2005-040-C

PROPOSED ORDER OF DISMISSAL

On May 27, 2005, Foundation Coal West 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 77.802, to its Belle Ayr Mine and Eagle Butte Mine, both located in Campbell County, Wyoming. The petitioner alleged that the alternative method proposed in the petition would at all times guarantee no less than the same measure of protection afforded by the standard.

Petitioner sought a modification of 30 CFR 77.802 to use a portable, diesel-powered electric generator for temporary power and/or to move electrically powered mine equipment in and around the subject mines. The high-voltage circuits from the diesel generator set supplying power to equipment while it is moved from point to point around the mine are grounded through a suitable resistor at the source transformer on the diesel generator set. As a result, Foundation Coal West is in compliance with 30 CFR 77.802 and the petition is not needed.

Therefore, pursuant to the authority delegated by the Secretary of Labor to the Administrator for Coal Mine Safety and Health, Foundation Coal West's Petition for Modification of 30 CFR 77.802 at the subject mines is hereby:

DISMISSED.

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.

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