

August 25, 2006

In the matter of:
Twentymile Coal Company
Foidel Creek Mine
I.D. No. 05-03836

Petition for Modification

Docket No. M-2006-014-C

PROPOSED ORDER OF DISMISSAL

On March 30, 2006 Twentymile Coal Company 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 75.1902(c) to its Foidel Creek Mine, located in Routt County, Colorado.

Petitioner sought a modification of 30 CFR 75.1902(c), which requires:

- (c) (1) Only one temporary underground diesel fuel storage area is permitted for each working section or in each area of the mine where equipment is being installed or removed.
- (2) The temporary underground diesel fuel storage area must be located--
 - (i) Within 500 feet of the loading point;
 - (ii) Within 500 feet of the projected loading point where equipment is being installed; or
 - (iii) Within 500 feet of the last loading point where equipment is being removed.

Petitioner proposed to make use of additional temporary underground diesel fuel storage areas, especially in order to perform work in the tailgate such as removing old belt structure, installing, seals, and rock dusting. On August 4, 2006, MSHA received a letter from the petitioner requesting withdrawal of the petition and the related application for temporary relief. Therefore, the requested modification of 30 CFR 75.1902(c) is not needed and it should be dismissed.

Therefore, pursuant to the authority delegated by the Secretary of Labor to the Administrator for Coal Mine Safety and Health, Twentymile Coal Company's Petition for Modification of the application of 30 CFR 75.1902(c) to its Foidel Creek Mine 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.

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.

Charles J. Thomas
Acting Chief, Division of Safety
Coal Mine Safety and Health