

In the matter of  
Consolidation Coal Company  
Robinson Run No. 5 Mine  
I.D. No. 46-01318

Petition for Modification  
  
Docket No. M-2003-070-C

PROPOSED DECISION AND ORDER

On September 23, 2003, a petition was filed seeking a modification of the application of 30 CFR 75.364(b)(2) to Petitioner's Robinson Run No.95 Mine, located in Marion County, West Virginia.

The Petitioner alleges that application of this standard will result in a diminution of safety to the miners. Petitioner also alleges that the alternative method proposed in the petition will at all times guarantee no less than the same measure of protection afforded by the standard without unnecessarily exposing persons to hazardous conditions.

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 recommendation, this Proposed Decision and Order is issued.

Finding of Fact and Conclusion of Law

Application of 30 CFR 75.364(b)(2) to the subject mine will result in a diminution of safety to the miners and the special terms and conditions set out below will at all times provide a safe work environment to the miners.

The petitioner alleges approximately 2,200 feet of return aircourse have become unsafe for mine examiners to travel. Also, the proposed alternative method of having a certified person take weekly air quantity and quality measurements at monitoring stations (3W-1, 3W-2, and 3W-3) at the start, midpoint and end of the unsafe-to-travel aircourse segment, will provide the same measure of protection as the standard.

MSHA's investigation confirmed that approximately 2,200 feet of the return aircourse has deteriorated roof and roof falls rendering the aircourse unsafe for travel and essentially impractical to rehabilitate. In addition, the investigation also

confirmed that the inlet and outlet monitoring points were accessible. However, the location of checkpoint 3W-1 was moved approximately one block inby where the area of the entry is smaller and a more accurate low velocity quantity reading can be taken.

Air quantity and quality measurements taken during the investigation indicate that significant leakage occurs in the petitioned area and the ventilation controls in the petitioned area are not easily accessed and are not examined during preshift or weekly examinations. Because these stoppings are not examined, MSHA has included requirements to monitor the level of leakage.

The petitioned aircourse is down wind of a seal area. MSHA finds that accumulation of methane or migration of methane or oxygen deficient air into the aircourses from the sealed area outby the petitioned area could occur. Such events could occur if the airflow is further restricted by roof falls, or short circuited by failure of ventilation controls which create the aircourse, or if the mine seals develop cracks or leaks as a result of deterioration. For this reason, MSHA has required the air quantity and quality measurements conducted at monitoring stations be done daily so as to provide a more timely detection of reduced air flow or the presence of explosive or noxious gases.

On the basis of the petition and the findings of MSHA's investigation, Consolidation Coal Company is granted a modification of the application of 30 CFR 75.364(b)(2) to its Robinson Run No. 95 Mine.

#### 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., sec. 811(c), it is ordered that Consolidation Coal Company's Petition for Modification of the application of 30 CFR 75.364(b)(2) in the Robinson Run No. 95 Mine is hereby:

GRANTED, for the examination of approximately 2,200 feet of unsafe-to-travel return air course from Main North 104 Block to 3 West 12 Block, conditioned upon compliance with the following terms and conditions:

1. Three monitoring stations (identified by the petitioner as Check Point Numbers 3W-1, 3W-2, and 3W-3) which would allow effective evaluation of air flow through the air split used to ventilate the return air course from Main North 104 Block to 3 West 12 Block, shall be established as follows:
  - (a) Two monitoring stations (identified by the petitioner as check points numbers 3W-1 and 3W-2) shall monitor the air entering the petitioned aircourse. Check point 3W-1 shall be located near and upwind of survey station 970. Check point 3W-2 shall be located in the belt entry regulator in the No. 4 entry between Block Nos. 108 and 109.
  - (b) One monitoring station (identified by the petitioner as check point 3W-3) shall monitor the air exiting the petitioned aircourse. Check point 3W-3 shall be located immediately inby survey station 2572.
2. Signs showing the safe travel route to each monitoring station shall be conspicuously posted in an adjacent travel entry. The monitoring stations and routes of travel to the monitoring stations shall be kept free of water accumulations.
3. A certified person shall conduct daily evaluations at each of the monitoring stations. The evaluations shall include the quantity and quality of air entering or exiting the monitoring station. The evaluation shall also include a determination of the aircourse's leakage, defined and measured as stated in Paragraph 8 below. These air measurements shall be made using MSHA approved and calibrated hand-held multi-gas detectors to check the methane and oxygen gas concentrations and appropriate, calibrated anemometers to check airflow volume.
4. A diagram showing the normal direction of the airflow shall be posted at the monitoring stations. The diagram shall be maintained in legible condition and any change in airflow direction shall be reported to the mine foreman for immediate investigation.
5. The date, initials of the examiner, time, the measured quantity and quality of air shall be recorded in a book, or on a date board, that shall be provided at the

monitoring stations. Such results, including the condition of the accessible permanent ventilation controls creating the aircourse, shall also be recorded in a book kept on the surface and made accessible to all interested parties.

6. All monitoring station(s) and approaches to monitoring station(s) shall, at all times, be maintained in a safe condition. The roof shall be adequately supported by roof bolts or other suitable means to prevent deterioration of the roof in the vicinity of the stations.
7. Methane gas or other harmful, noxious or poisonous gases shall not be permitted to accumulate in excess of legal limits for return air. An increase of 0.5 percent methane above the last previous methane reading or a 10 percent change in air flow quantity shall cause an immediate investigation of the affected area. The results of the investigation shall be immediately reported to the mine foreman.
8. The aircourse's initial leakage shall be determined during the first evaluation following implementation of this modification. Leakage is defined as the discrepancy between the air quantity entering and exiting the aircourse, as measured at the monitoring stations. A 10 percent change from the initial leakage in the aircourse shall cause immediate examination of all permanent ventilation structures. Damaged stoppings or other ventilation structures shall be repaired or replaced to minimize leakage. Following repairs a new "initial leakage" shall be determined and serve as the basis for subsequent evaluations.
9. The monitoring station location(s) shall be shown on the annually submitted mine ventilation map. The stations shall not be moved to another location without prior approval by the District Manager as a part of the Ventilation Plan for the mine.
10. Prior to implementing this modification, all mine personnel shall be instructed that, except along designated routes, no travel into the petitioned area shall be permitted and all other approaches shall be fenced off or barricaded with "DO NOT ENTER" warning signs. Entry in the area shall be permitted only to conduct investigations and correct problems with air flow detected through the monitoring process and all

such work will be done under the supervision of an authorized person. All persons who work in the area shall be instructed in the emergency evacuation procedures and all provisions of 30 CFR 75.1502 and 75.383.

11. Within 60 days after this Proposed Decision and Order becomes final, the Petitioner shall submit proposed revisions for its approved 30 CFR Part 48 training plan to the Coal Mine Safety and Health District Manager. These proposed revisions shall include initial and refresher training regarding compliance with this Proposed Decision and Order.

Any party to this action desiring a hearing on this matter must file in accordance with 30 CFR 44.14, 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 Decision and Order will become final and must be posted by the operator on the mine bulletin board at the mine.

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John F. Langton  
Deputy Administrator for  
Coal Mine Safety and Health