

June 30, 2004

In the matter of:  
Genwal Resources, Inc.  
South Crandall Canyon Mine  
I.D. No. 42-02356

Petition for Modification  
  
Docket No. M-2003-083-C

PROPOSED DECISION AND ORDER

On October 24, 2003, a petition was filed seeking a modification of the application of 30 CFR 75.500(d) to Petitioner's South Crandall Canyon Mine, located in Emery County, near Huntington Utah. The Petitioner 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.

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 recommendations, this Proposed Decision and Order is issued.

Finding of Fact and Conclusion of Law

The alternative method proposed by the Petitioner (as amended by the recommendations of MSHA) will at all times guarantee no less than the same measure of protection afforded the miners under 30 CFR 75.500(d).

On the basis of the petition and the findings of MSHA's investigation, Genwal Resources, Inc. is granted a modification of the application of 30 CFR 75.500(d) to its South Crandall Canyon 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 Genwal Resources, Inc.'s Petition for Modification of the application of 30 CFR 75.500(d) in the South Crandall Canyon Mine is hereby:

GRANTED, for the use of low-voltage or battery powered non-permissible electronic testing and diagnostic equipment in or inby the last open crosscut or within 150 of pillar workings or longwall face, under controlled conditions, for testing and diagnosing the mining equipment, conditioned upon compliance with the following terms and conditions:

1. The use of non-permissible low-voltage or battery-powered electronic testing and diagnostic equipment shall be limited to laptop computers; oscilloscopes; vibration analysis machines; cable fault detectors; point temperature probes; infrared temperature devices and recorders; insulation testers (meggers); voltage, current, and power measurement devices and recorders; pressure and flow measurement devices; signal analyzer devices; ultrasonic thickness gauges; electronic component testers; and electronic tachometers. Other testing and diagnostic equipment may be used if approved in advance by MSHA's District Office.
2. Non-permissible electronic testing and diagnostic equipment shall be used only when equivalent permissible equipment does not exist.
3. All other test and diagnostic equipment used within 150 feet of pillar workings shall be permissible.
4. All non-permissible electronic testing and diagnostic equipment used in or inby the last open crosscut or within 150 feet of pillar workings or longwall face shall be examined by a qualified person as defined in existing 30 CFR 75.153, prior to being used to ensure the equipment is being maintained in a safe operating condition. The examination results shall be recorded in the weekly examination of electrical equipment book and shall be made available to an authorized representative of the Secretary and the miners at the mine.
5. A qualified person as defined in existing 30 CFR 75.151 shall continuously monitor for methane immediately before and during the use of non-permissible electronic test and diagnostic equipment

in or inby the last open crosscut or within 150 feet of pillar workings or longwall face.

6. Non-permissible electronic testing and diagnostic equipment shall not be used if methane is detected in concentrations at or above 1.0 percent methane. When 1.0 percent or more of methane is detected while the non-permissible electronic equipment is being used, the equipment shall be de-energized immediately and the non-permissible electronic equipment withdrawn outby the last open crosscut or to a minimum of 150 feet outby the pillar workings or longwall face.
7. All hand-held methane detectors shall be MSHA-approved and maintained in permissible and proper operating condition as defined in existing 30 CFR 75.320.
8. Except for the time necessary to troubleshoot under actual mining conditions or when disabled equipment is not in the active face or in the immediate return of an active face, coal production in the section shall cease. However, coal may remain in the equipment in order to test and diagnose the equipment under "load."
9. Non-permissible electronic test and diagnostic equipment shall not be used to test equipment when float coal dust has accumulated on previously rockdusted surfaces, accumulated on equipment, and/or when float coal dust is in suspension.
10. All electronic test and diagnostic equipment shall be used in accordance with the manufacturer's recommended safe use procedures.
11. Low-voltage test and diagnostic equipment shall be provided with a "twist-lock" type connector when used in or inby the last open cross-cut or within 150 feet of pillar workings or longwall face.
12. Qualified personnel engaged in the use of electronic test and diagnostic equipment shall be properly trained to recognize the hazards and limitations associated with the use of electronic test and diagnostic equipment.

13. The non-permissible low-voltage or battery-powered electronic testing and diagnostic equipment shall not be put into service until MSHA has inspected the individual types of equipment and determined that it is in compliance with all the above terms and conditions. The Petitioner shall notify MSHA before additional non-permissible electronic testing and diagnostic equipment is put into service in or inby the last open crosscut or within 150 feet of pillar workings or longwall faces. The notice shall provide a reasonable time for MSHA to inspect such equipment before being used.

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

Certificate of Service

I hereby certify that a copy of this proposed decision was served personally or mailed, postage prepaid, this \_\_\_\_\_ day of \_\_\_\_\_, 2005, to:

Mr. Jim Pruitt  
Safety Director  
Genwal Resources, Inc.  
P.O. Box 1077  
Price, Utah 84501

Mr. Dennis O' Dell  
United Mine Workers of America  
8315 Lee Highway  
Fairfax, Virginia 22031-2215

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Melissa Beaty  
Mine Safety and Health Technician  
(Office Automation)

cc: Mr. Pat Erramouspe  
bcc: District 9  
OSRV  
C.Thomas  
Case File

MCS:CThomas:ss:3/3/2004 using standard terms and conditions and language developed for previous petitions M-2000-030-C and M-2001-101-C:mlc:6/14/2004 minor edits pages 1, 3, 4, and 5 for signature and distribution

R.Phillips:mb:09/01/2005: correction to Item 1 - battery operated drills not allowed.