

DECEMBER 09, 2004

In the matter of:  
Oxbow Mining, LLC  
Elk Creek Mine  
I.D. No. 05-04674

Petition for Modification

Docket No. M-2004-015-C

PROPOSED DECISION AND ORDER

On March 31, 2004, a petition was filed seeking a modification of the application of 30 CFR 75.1100-2(b) to Petitioner's Elk Creek Mine, located in Gunnison County, Colorado. The Petitioner alleges that the alternative method outlined in the petition would 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 recommendation, 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 75.1100-2(b).

On the basis of the petition and the findings of MSHA's investigation, Oxbow Mining, LLC is granted a modification of the application of 30 CFR 75.1100-2(b) to its Elk Creek 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 Oxbow Mining, LLC's Petition for Modification of the application of 30 CFR 75.1100-2(b) in the Elk Creek Mine is hereby:

GRANTED for the North Mains belt conveyor from crosscut 11 outby, conditioned upon compliance with the following terms and conditions:

1. The waterline shall be installed in the belt entry from the portal to crosscut 11 or in an entry adjacent to the conveyor belt entry from the portal to an entry adjacent to the belt entry crosscut 11 with the fire hydrants (water outlets) located at the crosscuts connecting the adjacent entry and the belt entry.
2. An automatic actuated valve shall be installed near crosscut 11, between the main water supply and the water line that supplies the fire valves from crosscut 11 to the portal. Electrical power shall be necessary to hold this valve in a closed position. The valve shall return to the open position (charging line) on loss of voltage or when activated as described in item 3 below.
3. The automatic valve shall be connected to the Conspec system. The valve shall be automatically actuated if any of the carbon monoxide sensors, located between the portal and crosscut 11, detect a level of 25 parts per million (ppm) for longer than 180 seconds. The Conspec system shall also indicate when the "dry line" is charged with water.
4. The automatic valve shall be capable of being manually actuated from the main Conspec interface at a manned surface location and at the fire outlet valve locations.
5. A manually operated bypass valve shall be installed in parallel with the automatic valve. This manual valve shall normally be closed.
6. Water shall automatically charge the water line if either the automatic valve or the manual bypass valve is moved to the open position.
7. A manually operated outlet shall be installed downstream of the automatic valve. This valve shall be designated as a test/drain valve and shall be closed except when testing the system or when draining

water after testing or actuation. The test/drain valve shall be located at the lowest elevation point in order to allow complete drainage of water from the system and prevent the automatic or manual bypass valve from freezing. Miners shall be trained in the operation and location of the valve. Precautions shall be taken to assure the valve is closed after testing has been completed and remains closed during normal belt operation.

8. Another manually operated valve shall be installed just downstream of the test/drain valve. This valve shall be open at all times, except when testing of the system is required. During testing, this valve shall isolate the water line that supplies the fire valves from crosscut 11 to the portal. This will allow the automatic valve to be tested and will assure that the system is operating properly without filling the entire length of water line in the outby direction from crosscut 11, creating the need to drain a large volume of water. Miners shall be trained on the operation and location of the valve. Precautions shall be taken to assure the valve is closed after testing has been completed and remains closed during normal belt operation.
9. All valves shall be located so that they are easily accessible for inspection and operation.
10. The dry pipe system shall only be used during the period from October 1 through April 30. During the remaining months of the year, the water line from the portal to crosscut 11 shall remain charged. When changes from a charged system to a dry system are made, miners shall be made aware of changes and provided with instructions on the current system.
11. During the time in which the dry pipe system is in operation, the system shall be examined weekly and the results of this examination shall be recorded in the weekly examination book.
12. All valves and switches that are part of the system shall be clearly marked and conspicuously identified with reflective material as to their purpose. Miners

shall receive training regarding how the system operates, actions to take during an emergency, and methods to use when testing the system for correct operation.

13. Fire hydrants shall not be more than 270 feet apart.
14. The fire hydrants shall be operable, clearly identified, and positioned so that, in the event of an emergency, the hose can be safely and quickly connected to the outlet. Ingress and egress between the belt entry and the hydrant shall be completely unrestricted.
15. Reflective signs shall be conspicuously placed in the belt entry indicating the location of each fire hydrant.
16. Where the stoppings between the adjacent entry and belt entry remain intact, man-doors shall be located and maintained in operable condition in the stopping opposite each fire hydrant to allow easy access to the hydrant.
17. In addition to the amount of fire hose required by 30 CFR 75.1100-2(b) (500 feet), at least 200 feet of extra fire hose shall be kept in the immediate area of belt crosscut 11. The fire hose required to be strategically located shall be long enough that any affected area on the belt can be covered from the most proximate fire hose outlet.
18. Prior to implementing this Petition for Modification, an inspection shall be conducted by MSHA to ensure that all the special terms and conditions of this Proposed Decision and Order have been instituted.
19. Prior to implementing the petition, all persons who inspect, install, and maintain the water lines shall be instructed in the special terms and conditions of this alternative method. No more than 60 days after this Proposed Decision and Order becomes final, the Petitioner shall submit proposed revisions to the approved 30 CFR Part 48 training plan to the Coal Mine Safety and Health District Manager. These proposed

revisions shall specify both initial and refresher training regarding the alternative method outlined in the petition and the special terms and conditions stated in the 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, a request 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 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  
Coal Mine Safety and Health