

In the matter of
Rosebud Mining Company

Petition for Modification

Tom's Run Mine
I.D. No. 36-08525

Tracy Lynne
I.D. No. 36-08603

Clementine Mine
I.D. No. 36-08862

Cherry Tree Mine
I.D. No. 36-09224

Lowry Mine
I.D. No. 36-09287

Penfield Mine
I.D. No. 36-09355

Mine 78
I.D. No. 36-09371

Heilwood
I.D. No. 36-09407

Docket No. M-2010-023-C

PROPOSED DECISION AND ORDER

Background

On April 30, 2010 a petition under Section 101 (c) of the Federal Mine Safety and Health Act of 1977 (Mine Act), 30 U.S.C. § 811 (c) and 30 Code of Federal Regulations (30 C.F.R.) Part 44.11, et. seq. was filed by Rosebud Mining Company. Petitioner requests a modification of the application of 30 C.F.R. § 75.503 and 30 C.F.R. § 18.35 to Petitioner's following mines: Tracy Lynne mine and Clementine Mine in Armstrong County; Penfield Mine in Clearfield County; Mine 78 in Somerset County; and Heilwood, Lowry Mine, Tom's Run Mine and Cherry Tree Mine in Indiana County, Pennsylvania. Petitioner requests to increase the maximum lengths of the trailing for its

Fletcher Roof Ranger II Twin Boom Roof Bolters.¹ 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.

30 C.F.R. § 75.503, Permissible electric face equipment; maintenance, provides:

The operator of each coal mine shall maintain in permissible condition all electric face equipment required by §§75.500, 75.501, 75.504 to be permissible which is taken into or used in by the last open crosscut of any such mine.

The following MSHA approval regulations are also relevant to the petition. 30 C.F.R. § 18.35(a)(5)(i), Portable (trailing) cables and cords, provides:

Ordinarily the length of a portable (trailing) cable shall not exceed 500 feet. Where the method of mining requires the length of a portable (trailing) cable to be more than 500 feet, such length of cable shall be permitted only under the following prescribed conditions:

- (i) The lengths of portable (trailing) cables shall not exceed those specified in Table 9, Appendix 1, titled "Specifications for Portable Cables Longer Than 500 Feet."

Under Table 9 of Appendix 1, the maximum allowable cable length for petitioner's roof bolter is 700 feet. In addition, 30 C.F.R. § 18.35(a)(5)(ii) provides:

Short-circuit protection shall be provided by a protective device with an instantaneous trip setting as near as practicable to the maximum starting-current-inrush value, but the setting shall not exceed the trip value specified in MSHA approval for the equipment for which the portable (trailing) cable furnishes electric power[.]

The petitioner alleges that the proposed alternative method regarding the length of the cables for the roof bolting machines will at all times guarantee no less than the same measure of protection afforded by the standard with no diminution of safety to miners. In support of its petition, the petitioner states the following:

¹ Section 101 (c) of the Mine Act provides for the modification of the application of any "mandatory safety standard" to a mine under certain conditions. The regulations in 30 C.F.R. Part 18 are not "mandatory safety standards." Rather, 30 C.F.R. Part 18 sets forth requirements to obtain MSHA approval of electrically operated equipment. Because the application of 30 C.F.R. § 18.35 is not a "mandatory safety standard" subject to modification under section 101 (c) of the Mine Act, MSHA is construing the petitioner's request only as a request to modify the application of 30 C.F.R. § 75.503.

1. The maximum length of the 480-volt trailing cables shall be 950 feet.
2. The trailing cables for the 480-volt Fletcher Roof Ranger II Roof Bolters shall not be smaller than No. 2 A.W.G. cable.
3. All circuit breakers used to protect the No. 2 A.W.G. trailing cables exceeding 700 feet in length shall have instantaneous trip units calibrated to trip at 500 amperes. The trip setting of these circuit breakers shall be sealed to insure that the settings on these breakers cannot be changed, and these breakers shall have permanent, legible labels. Each label shall identify the circuit breaker as being suitable for protecting the No. 2 A.W.G. cables.
4. Replacement circuit breakers and/or instantaneous trip units, used to protect the No. 2 A.W.G. trailing cables shall be calibrated to trip at 500 amperes, and this setting shall be sealed.
5. All components that provide short-circuit protection shall have a sufficient interruption rating in accordance with the maximum calculated fault currents available.
6. During each production day, the No. 2 A.W.G. cables and the circuit breakers shall be examined in accordance with all 30 C.F.R. provisions.
7. Permanent warning labels shall be installed and maintained on the load center identifying the location of each short-circuit protective device. These labels shall warn miners not to change or alter the settings of these devices.
8. If the affected trailing cables are damaged in any way during the shift, the cable shall be de-energized and repairs made.
9. The Petitioner's alternative method shall not be implemented until all miners who have been designated to operate the Roof Ranger II, or any other person designated to examine the trailing cables or trip settings on the circuit breakers have received proper training as to the performance of their duties.
10. Within sixty (60) days after this Proposed Decision and Order becomes final, the petitioner shall submit proposed revisions for its approved 30 C.F.R. Part 48 training plan to the District Manager. These proposed

revisions shall specify task training for miners designated to examine the trailing cables for safe operating condition and verify the short-circuit settings of the circuit interrupting devices(s) that protect the affecting trailing cables do not exceed the specified setting(s) in Item No. 4 the training shall include the following elements:

- a. The hazards of setting the short-circuit interrupting devices(s) too high to adequately protect the trailing cables.
- b. How to verify that the circuit interrupting devices(s) protecting the trailing cable(s) are properly set and maintained.
- c. Mining methods and operating procedures that will protect the trailing cables against damage.
- d. The proper procedure for examining the trailing cable to insure that the cables(s) are in safe operating condition by a visual inspection of the entire cable, observing the insulation, the integrity of the splices, nicks and abrasions.

The procedures as specified in 30 C.F.R. 48.3 for approval of proposed revisions to already approved training plans shall apply.

11. A copy of this petition has been posted at the mine.

The United Mineworkers of America (UMWA) reviewed the petition and commented that the petitioner needed to provide calculations and a short-circuit analysis in order to determine the validity of the allegations in the petition and specifically whether there was enough voltage to trip the breaker if there was a fault. Based upon this lack of information, the UMWA believed that the petition should be denied because it could not be determined whether the petitioner's alternative method provided the same level of protection as did the existing standard.

MSHA personnel conducted investigations at all eight mines regarding the petition and filed reports of their findings with the Administrator for Coal Mine Safety and Health. After a careful review of the entire record, including the petition, the UMWA's comments, and the MSHA investigative reports, this Proposed Decision and Order is issued.

Findings of Fact and Conclusions of Law

Petitioner proposed an alternative method of compliance with the standard in order to increase the maximum length of trailing cables to 950 feet. During the investigation the Petitioner requested that the length of cable be extended to 1,100 feet to supply three-phase 480-volt power to Fletcher Roof Ranger II roof bolters in the mines.

The petition for modification pertains to eight of Petitioner's mines. The investigative report found the Tom's Run mine was operating in the Upper Freeport coal seam through three 3 drifts. There are 46 persons employed at the mine, forty-one 41 that work underground and five 5 that work on the surface. These employees are not represented by a union. The mine produces coal on three 3 production shifts per day, five 5 days per week, and produces a daily average of 900 tons of raw coal. This mine currently has only one 1 continuous mining section. Coal is transported from the section by conveyor belts to the outside.

The Tracy Lynne mine is operating in the Lower Kittanning coal seam through three 3 drifts. There are 41 persons employed at the mine, thirty-six 36 that work underground and five 5 that work on the surface. These employees are not represented by a union. The mine produces coal on two (2) production shifts per day, five and one-half (5 ½) days per week, and produces a daily average of 2,500 tons of raw coal. This mine currently has only one (1) continuous mining section utilizing continuous haulage. Coal is transported from the section by conveyor belts to the outside.

The Clementine mine is also operating in the Lower Kittanning coal seam through one two-compartment slope and two shafts. There are twenty-nine (29) persons employed at the mine, twenty-six (26) that work underground and three (3) that work on the surface. These employees are not represented by a union. The mine produces coal on two 2 production shifts per day, five 5 days per week, and produces a daily average of 1,680 tons of raw coal. This mine currently has only one (1) continuous mining section utilizing continuous haulage. Coal is transported from the section by conveyor belts to the outside.

The Cherry Tree mine is operating in the Upper Freeport coal seam through four drifts. There are one hundred three (103) persons employed at the mine, ninety-seven (97) that work underground and six (6) that work on the surface. These employees are not represented by a union. The mine produces coal on two (2) production shifts per day, five (5) days per week, and produces a daily average of 4,200 tons of raw coal. This mine currently has three (3) continuous mining sections. The producing sections consist of two section utilizing continuous miners with mobile bridges and the third section utilizes a continuous miner with shuttle car haulage. Coal is transported from the section by conveyor belts to the outside.

The Lowry mine is also operating in the Lower Kittanning coal seam through three drifts. There are sixteen (16) persons employed at the mine, fourteen (14) that work underground and two (2) that work on the surface. These employees are not represented by a union. The mine produces coal on one (1) production shifts per day, five (5) days per week, and produces a daily average of 1,400 tons of raw coal. This mine currently has only one (1) continuous mining section. Coal is transported from the section by conveyor belts to the outside.

The Penfield mine is also operating in the Lower Kittanning coal seam through three drifts. There are thirty-seven (37) persons employed at the mine, thirty-three (33) that work underground and four (4) that work on the surface. These employees are not represented by a union. The mine produces coal on two (2) production shifts per day, five (5) days per week, and produces a daily average of 1,200 tons of raw coal. This mine currently has only one (1) continuous mining section with mobile bridges. Coal is transported from the section by conveyor belts to the outside.

Mine 78 is also operating in the Lower Kittanning coal seam through three drifts. There are sixty-nine (69) persons employed at the mine, sixty-four (64) that work underground and five (5) that work on the surface. These employees are not represented by a union. The mine produces coal on two (2) production shifts per day, six (6) days per week, and produces a daily average of 2,700 tons of raw coal. This mine currently has two producing sections using continuous miners and attached continuous haulage. Coal is transported from the section by conveyor belts to the outside.

The Heilwood mine is also operating in the Lower Kittanning coal seam through three drifts. There are fifty-four (54) persons employed at the mine, forty-nine (49) that work underground and five (5) that work on the surface. These employees are not represented by a union. The mine produces coal on two (2) production shifts per day, six (6) days per week, and produces a daily average of 1,800 tons of raw coal. This mine currently has only one (1) continuous mining section utilizing shuttle car haulage. Coal is transported from the section by conveyor belts to the outside.

The Fletcher Roof Ranger II roof bolters are generally operated on the working sections of the foregoing mines. However, by extending the length of the trailing cables on the roof bolters, these machines could be operated anywhere in the mine. In addition, extending the length of the trailing cables would eliminate the need for one-circuit distribution power centers for the roof bolters in order for them to reach the typical mining projections. Also, the extended cables would allow the moving of the roof bolters from section to section and in and out of the mine. They would also allow the roof bolters to be used for roof support replacement or rehabilitation work outby the

working sections. The mine operators will provide circuit breaker settings above and beyond what is required with standard length cables.

During the months of June and July, 2010, MSHA investigated all eight mines and issued final reports. In addition, to address the UMWA's concerns, a short circuit analysis was conducted on the Fletcher Roof Ranger II roof bolters with the conclusions and calculations in the investigation reports for each mine. The Short-Circuit Calculation Program, developed by MSHA's Approval and Certification Center, was used to evaluate the mine's electrical system and predict the fault current available for 1,100 feet of No. 2 AWG cable supplying 480 volts of AC power to the roof bolters. The short-circuit analysis indicated that adequate fault current was available to trip the protective circuit breakers for the roof bolters under a short circuit condition. However, the analysis concluded that the Tracy Lynne mine did not have the minimum available current (amperes) necessary to set the circuit breaker at 500 amps requested by the Petitioner. The analyses showed that the breaker setting should be set at 497 amperes or lower to protect 1,100 feet of No. 2 AWG cable at this mine. Therefore, a lower circuit breaker setting or reducing the cable length will be required at the Tracy Lynne mine.

MSHA is granting the Petitioner's requested alternative method to extend the length of the trailing cables supplying 480-volt, three phase alternating current to the Fletcher Roof Ranger II roof bolters provided that certain safety requirements discussed below are followed.

Item 1 of the petition requested approval for trailing cables to be extended to a length of 950 feet. The investigative reports state that each mine verbally requested that the trailing cables be extended to 1,100 feet. MSHA is granting the Petitioner's request to extend the trailing cable lengths to 1,100 feet because short-circuit analysis showed that there was adequate fault current available to trip the protective circuit breakers for the roof bolters under a short circuit condition.

Item 2 of the petition requested the cable for the Fletcher Roof Ranger II roof bolters not be smaller than No. 2 AWG. MSHA has included this item in the approved order.

Item 3 of the petition requested approval that all circuit breakers used to protect the No. 2 A.W.G. trailing cables exceeding 700 feet in length shall have instantaneous trip units calibrated to trip at 500 amperes, that the circuit breakers be sealed to insure that the settings on these breakers cannot be changed, that the breakers have permanent, legible labels, and that each label identify the circuit breaker as being suitable for protecting the No. 2 A.W.G. cables. MSHA agrees with this condition and has included this language in the proposed order as Item number 3. In addition, MSHA has included in this item that the calibration, sealing, and labeling of the circuit breakers must be performed by

the circuit manufacturer or authorized repair facility outfitted with calibrated test equipment.

Item 4 of the petition requested that replacement circuit breakers and/or instantaneous trip units used to protect No. 2 A.W.G. trailing cables shall be calibrated to trip at 500 amperes, and this setting shall be sealed. MSHA agrees with this condition except for the Tracy Lynne mine where the trip setting shall not be set higher than 497 amperes and the setting must be sealed or locked and has included this language in the proposed order as Item number 4. In addition, MSHA included language that the calibration, sealing, and labeling of the replacement units must be conducted by the device manufacturer or an authorized repair facility outfitted with calibrated test equipment.

Items 5 of the petition requested approval that all components that provide short-circuit protection have a sufficient interruption rating in accordance with the maximum calculated fault currents available. MSHA included this item in the approved order.

Item 6 of the petition requested that during each production day, the No. 2 A.W.G. cables and the circuit breakers shall be examined in accordance with all 30 C.F.R. provisions. MSHA has included this item in the approved order.

Item 7 of the petition requested approval that permanent warning labels be installed and maintained on the load center identifying the location of each short-circuit protective device and as a warning to miners not to change or alter the settings of these devices. MSHA agrees with this condition and has included this language in the proposed order.

Item 8 of the petition requested approval that if the trailing cables were damaged in any way during the shift, the cable would be de-energized and repaired. MSHA agrees with this condition and has included this language in the proposed order.

Item 9 of the petition requested approval that the Petitioner's alternative method not be implemented until all miners who have been designated to operate the Roof Ranger II, or any other person designated to examine the trailing cables or trip settings on the circuit breakers have received proper training as to the performance of their duties. MSHA modified this language to state alternative method not be implemented until miners, who have been designated to examine the integrity of seals or locks, verify the short-circuit setting, trained in the proper procedures for examining trailing cables for defects and damage have received the elements of training specified herein.

Item 10 of the petition requested approval that within sixty (60) days after this Proposed Decision and Order becomes final, the petitioner shall submit proposed revisions for its

approved 30 C.F.R. Part 48 training plan to the District Manager. MSHA modified this language and has included it in the order as Item number 12.

The alternative method, with the previously mentioned conditions and MSHA recommendations, set forth in this Proposed Decision and Order will at all times guarantee no less than the same-measure of protection afforded the miners under 30 C.F.R. § 75.503 in that the safety features installed on the roof bolters and the electrical circuits will allow the roof bolters to safely operate at these underground mines.

On the basis of the petition and the findings of MSHA's investigation, Rosebud Mining Company is granted a modification of the application of 30 C.F.R. § 75.503 to its Tom's Run Mine, Tracy Lynne mine, Clementine Mine, Cherry Tree Mine, Lowry Mine, Penfield Mine, Mine 78 and Heilwood 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. § 811(c), it is ordered that Rosebud Mining Company's Petition for Modification of the application of 30 C.F.R. § 75.503 for trailing cables used in Tom's Run Mine, Tracy Lynne mine, Clementine Mine, Cherry Tree Mine, Lowry Mine, Lowry Mine, Penfield Mine, Mine 78 and Heilwood mine is hereby:

GRANTED, for the trailing cables supplying three-phase 480-volt power to Fletcher Roof Ranger II roof bolters used in these mines conditioned upon compliance with the following terms and conditions:

1. The maximum length of the trailing cables supplying power to the three-phase 480-volt Fletcher Roof Ranger II roof bolters shall be 1,100 feet.
2. The 480-volt Fletcher Roof Ranger II roof bolter trailing cables shall not be smaller than No. 2 AWG.
3. All circuit breakers used to protect No. 2 A.W.G. trailing cables exceeding 700 feet in length on the Fletcher Roof Ranger II roof bolters shall have instantaneous trip units calibrated to trip at 500 amperes except for the roof bolters at the Tracy Lynne mine where the circuit breaker setting can not be higher than 497 amperes. The trip setting of these circuit breakers shall be sealed or locked so that the setting cannot be changed, and these circuit breakers shall have permanent, legible labels displaying maximum

length of the cable and indicate the maximum short circuit setting. Calibration, sealing and labeling of circuit breakers shall be preformed by the circuit breaker manufacturer or an authorized repair facility outfitted with calibrated test equipment. Each label shall identify the circuit breaker as being suitable for protecting No. 2 A.W.G. cables. The label shall be maintained legible.

4. Replacement instantaneous trip units used to protect No. 2 A.W.G. trailing cables shall be calibrated to trip at 500 amperes except for Tracy Lynne mine and this setting shall be sealed or locked. Calibration, sealing, and labeling of the replacement units must be conducted by the device manufacturer or an authorized repair facility outfitted with calibrated test equipment.
5. All components that provide short-circuit protection shall have a sufficient interruption rating in accordance with the maximum calculated fault currents available.
6. Prior to putting the roof bolters in service for each shift, examinations by persons designated by the mine operator shall be made to visually examine the trailing cables to ensure that the cables are in safe operating condition. The instantaneous settings of the specially calibrated circuit breakers shall also be visually examined to ensure that the seals or locks have not been removed and that they do not exceed the settings stipulated in item 3.
7. Permanent warning labels shall be installed and maintained on the cover(s) of the power center or distribution box identifying the location of each sealed short-circuit protective device. These labels shall warn miners not to change or alter these sealed short-circuit settings.
8. Any trailing cable that is not in safe operating condition or damaged in any way shall be removed from service immediately and repaired or replaced. Each splice or repair in the trailing cables shall be made in a workmanlike manner and in accordance with the instructions of the manufacturer of the splice or repair materials. The splice or repair shall comply with 30 C.F.R. §§ 75.603 and 75.604.
9. The Petitioner's alternate method shall not be implemented until miners, who have been designated to examine the integrity of seals or locks, verify the short-circuit settings and proper procedures for examining trailing

cables for defects and damage and designated operators of the Fletcher Roof Rangers have received the training specified in Item 12.

10. To protect against overheating of cables due to excessive cable stored on cable reels, operators will ensure that only the amount of cable needed for the shift is stored on the reel. All excess cable shall be stored in a safe location.
11. Prior to implementation of this petition, the circuit breakers outlined above shall be inspected by MSHA to ensure their conformity with the terms and conditions of this petition.
12. Within 60 days after this Proposed Decision and Order becomes final, the Petitioner shall submit proposed revisions for its approved 30 C.F.R. Part 48 training plan to the Coal Mine Safety and Health District Manager for the District in which the mine is located. The training shall include the following elements:
 - (a) Training in the mining methods and operating procedures that will protect the trailing cables against damage;
 - (b) Training in proper procedures for examining the trailing cables to ensure that they are in safe condition;
 - (c) Training in the hazards of setting the short circuit interrupting device(s) too high to adequately protect the trailing cables; and
 - (d) Training in how to verify that the circuit interrupting device(s) protecting the trailing cable(s) are properly set and maintained.

The procedures as specified in 30 C.F.R. § 48.3 for approval of proposed revisions to already approved training plans shall apply.

Any party to this action desiring a hearing on this matter must file in accordance with 30 C.F.R. § 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 may 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.

Charles J. Thomas
Deputy Administrator for
Coal Mine Safety and Health