

and Geotechnical Engineering Division, submitted recommendations and concerns regarding the development of the second shaft which would be used as an additional escapeway. 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.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

MSHA agrees that the alternative method proposed by the Petitioner, with the conditions listed below, would guarantee no less than the same measure of protection afforded by 30 CFR § 57.11050(a). The use of the 54 shaft as the sole means of escape with safety precautions would be as safe as developing an additional opening in close proximity to the first shaft.

ORDER

Wherefore, pursuant to the authority delegated by the Secretary of Labor to the Administrator for Metal and Nonmetal, 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 a modification of 30 CFR § 57.11050 based upon an alternative method of escape at the New Tech Oil Company's North Tisdale Shaft #1 Mine, is hereby:

Granted, conditioned upon compliance with the following:

1. The number of miners allowed underground in the mine will be limited to three at one time.
2. The refuge chamber must be reestablished and comply with the requirements of 30 CFR § 57.11052.
3. New Tech shall make available for each miner underground a Self-Contained Self-Rescuer (SCSR) device which is adequate to protect each miner for one hour or longer. These SCSR's shall be approved by MSHA and NIOSH under 42 CFR part 84. The SCSR's shall be located in the refuge chamber, or carried or worn at all times by each miner when underground.
4. Each miner shall be trained quarterly in the use of the SCSR devices.
5. The extent of the underground excavation shall not be increased beyond the present dimensions.

This granted petition for modification is subject to review by the Administrator for Metal and Nonmetal and may be revised if a change in circumstances occurs, or findings which originally supported the terms or conditions of this granted modification are no longer valid.

/s/ Earnest C. Teaster, Jr.

Earnest C. Teaster, Jr.
Administrator for
Metal and Nonmetal Mine Safety and Health