

May 10, 2006

In the matter of  
Frontier-Kemper Constructors, Inc.  
ASARCO Ray Complex Tunnel Mine  
ID No. 02-02873

Docket No. M-2000-005-M

PROPOSED DECISION AND ORDER TO REVOKE

On August 25, 2000, Frontier-Kemper Constructors, Inc. (Frontier-Kemper) was granted a petition for modification at ASARCO, Inc.'s ASARCO Ray Complex, (I.D. No. 02-00150) of 30 CFR § 57.9360, pursuant to Section 101(c) of the Federal Mine Safety and Health Act of 1977, based upon an alternative method of compliance. The granted petition allowed the use of safety platforms (instead of shelter-holes) mounted along the rib at regular intervals throughout The ASARCO Mineral Creek Water Diversion Tunnel.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

MSHA Rocky Mountain District personnel determined that the work was completed and all miners and equipment were removed from this area on or about April 2002. The mine ID number was abandoned on February 5, 2003. Consequently, modification of the mandatory standard is no longer needed.

ORDER

Wherefore, pursuant to the authority delegated by the Secretary of Labor to the Administrator for Metal and Nonmetal Mine Safety and Health and pursuant to Section 101(c) of the Federal Mine Safety and Health Act of 1977, 30 U.S.C., Section 811(c), it is ordered that Frontier-Kemper Constructors, Inc.'s modification of 30 CFR CFR § 57.9360 as it pertains to safety platforms at the ASARCO Ray Complex Tunnel Mine, is hereby **REVOKED**.

/s/Felix Quintana

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Felix Quintana  
Acting Administrator for  
Metal and Nonmetal Mine Safety and Health