

April 6, 2006

In the matter of
Wabash Mine Holding Company
Wabash Mine
I.D. No. 11-00877

Petition for Modification

Docket No. M-2005-030-C

PROPOSED DECISION AND ORDER

On April 20, 2005, a petition was filed seeking a modification of the application of 30 CFR Sections 75.364(b)(1) and 75.364(b)(4) to Petitioner's Wabash Mine, located in Wabash County, Illinois. The Petitioner alleges that examination of Main South No. 1 through No. 6 seals and Main East No. 4 through No. 10 seals presents a hazard to miners because of numerous roof falls and deteriorated roof, which prevents safe access to the seals. Therefore, it contends that application of this standard will result in a diminution of safety to the miners and 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 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, this Proposed Decision and Order (PDO) is issued.

Finding of Fact and Conclusion of Law

The petitioned standards, 30 CFR Sections 75.364(b)(1) and 75.364(b)(4) requires that at least every seven days an examination for hazardous conditions at the following locations shall be made by a certified person designated by the operator: in at least one entry of each intake aircourse, in its entirety, so that the entire aircourse is traveled; and at each seal along return and bleeder aircourses and at each seal along intake aircourses not examined under §75.360(b)(5).

The petitioner alleges that roof falls in several of the airways formerly providing access to these seals block safe access to conduct the required examinations. The petitioner further states that air that passes by these seals does not ventilate any working section, but, rather, is traveling to a nearby return air shaft.

MSHA's investigation report and subsequent discussions with the investigators revealed that the investigators were able to safely travel to the Main East Seals No. 4 through No. 10. However, they were not able to examine the Main South Seals No. 1 through No. 7 (the southern seals between the two proposed evaluation points) due to numerous roof falls and generally hazardous roof conditions. They also explored entries outby the seals and could not find a safe route of travel to these seals. The investigators observed that the petitioner has installed minimal supplemental roof support in the petitioned area. Little effort has been made to clean up and improve the deteriorated conditions. The roof conditions at the "Permanent Outby EP" were also greatly deteriorated. Consequently, the investigators measured an air velocity of 36,000 cubic feet per minute (cfm) five crosscuts north of the location proposed as the "Permanent Outby EP," at a location with marginally better roof conditions than the proposed point. Roof conditions are further improved as one travels further north in this aircourse. Supplemental support may be needed in the weekly examination areas and the travelways accessing the examination/measurement locations, since further deterioration should be expected throughout the petitioned area.

The Main East Seals No. 4 through No. 10 and the Main South Seals No. 1 through No. 7 are the seals located between the two proposed Evaluation Points and are located between the end of the slope and the bottom of the nearby return air shaft. The Main East Seals were constructed with a foamed cementitious mix of Tekseal® cement. The investigators examined the Main East Seals No. 4 through No. 10 and they appeared sound. Polyurethane foam was applied to three of the seals along the roof and ribs. In particular, the face of Seal No. 4 was approximately 75% covered with the foam.

The Main South Seals No. 1 through No. 17 were constructed with MICON® Polyurethane. The investigators were not able to examine the Main South Seals No. 1 through No. 7, which are the southern seals between the two proposed evaluation points, due to numerous roof falls and generally hazardous roof conditions. The Main South Seals No. 8 through No. 11 were accessible. The Main South Seals No. 12 through No. 17 were inaccessible due to numerous roof falls and generally hazardous roof conditions. The Main South Seals No. 12 through No. 17 are not included in this petition. They are examined by an alternate method approved in the mine ventilation plan, interrelated to the Decision and Order for Petition for Modification Docket No. M-1999-115-C. That petition requires a preshift examination of the monitoring stations (EPs).

The investigators found that the Main South Seals No. 1 through No. 7 and the Main East Seals are ventilated with intake air that flows down the slope, past the seals, and to the upcast shaft. The map shows that this aircourse is separated from the belt aircourse by a line of permanent stoppings; however, the integrity of these stoppings could not be assessed due to roof falls and hazardous roof conditions in the area. The belt aircourse is the alternate escapeway for this mine. Main South Seals No. 8 through No. 11, which are not in the petitioned area, are common with the belt aircourse and not readily ventilated to the nearby return air shaft. According to the map, Main South Seals No. 12 through No. 17 are ventilated with intake air that flows down the slope, past the seals, and to the upcast shaft. The intake air flowing passed the Main East and Main South seals does not ventilate a working section. The investigators measured 36,000 cfm five crosscuts north of the location proposed as the "Permanent Outby EP." The quality tests showed:

Oxygen	21.0%
Methane	0.0%; and
Carbon Monoxide	0 parts per million (ppm)

at both the "Permanent Outby EP" and immediately outby Main East Seal No. 4.

The mine-wide monitoring system would provide continuous monitoring of the oxygen and methane content in the air after passing through the petition-delineated hazardous roof areas. That system would activate an alarm in the communication center and the lamp room on the surface. However, the monitoring station location proposed by the petitioner would not be representative of the airflow reaching the entry nearest each seal. Some of the ventilation controls currently directing airflow to the accessible seals in the petition area are curtains, while other controls are inaccessible permanent stoppings. As such, it would be plausible for the ventilating current to bypass the areas near the seal due to a crushed stopping or simply a fallen curtain. The EP locations and the monitoring station, as proposed by the petitioner, would not be able to detect this, because in the event of a short circuit of the ventilating current, the monitoring station would not be assessing the air immediately after it passes the seals. Consequently, methane could accumulate in the areas in front of the seals. Potentially hazardous conditions arising from seal deterioration cannot be physically assessed utilizing the proposed alternate method.

In addition, the ventilation controls that direct the air flow to the seals are also inaccessible for examination and the mine's main belt conveyor system is adjacent to the areas in question. The proposed amended alternative method consists of continuously monitoring the air quality for methane and oxygen content and conducting weekly examinations only at the monitoring station designated as Intake EP. MSHA has further amended the alternative method to provide specific requirements for the installation, calibration, and maintenance of the monitoring sensors; and detailed requirements as to the locations, maintenance, and examinations to be conducted at the monitoring stations. This amended alternative method can detect severe seal deterioration or failure but, due to the dilution of out-gassing from the sealed area, the method provides a less reliable means of detecting the early stages of seal deterioration than would be possible if the seals could be visually examined and gas concentrations monitored at the seals. Therefore, the alternative method provides a safe work environment for examiners but does not provide the same measure of protection as the standard would provide if the seals could be safely approached and examined.

On the basis of the petition and the findings of MSHA's investigation, Wabash Mine Holding Company is granted a modification of the application of 30 CFR 75.364(b)(1) and (b)(4) to its Wabash Mine as applied to the Main South No. 1 through No. 6 seals and denied a modification of the application of 30 CFR 75.364(b)(1) and (b)(4) to its Wabash Mine as applied to the Main East No. 4 through No. 10 seals.

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 Petition for Modification of the application of 30 CFR 75.364(b)(1) and (b)(4) in the Wabash Mine is hereby:

DENIED, for the modification of the application of 30 CFR 75.364(b)(1) and §75.364(b)(1)(b)(4) to its Wabash Mine as applied to the Main East No. 4 through No. 10 seals.

And

GRANTED, for continuous monitoring using intrinsically safe sensors installed as part of the mine's Atmospheric Monitoring System (AMS) and preshift examination and evaluation of air entering and leaving the aircourse that ventilates the seven inaccessible Main South seals, conditioned upon compliance with the following terms and conditions:

1. Air monitoring stations, that allow evaluation of the aircourse ventilating the inaccessible mine seals, shall be established at the following locations:
 - a. The Intake EP monitoring station shall be located where air enters the inaccessible area, near the No. 8 Main South Seal and the slope bottom at the Intake EP as designated on the attached map.
 - b. The Permanent Outby EP shall consist of three monitoring stations, located where air leaves the inaccessible area, near the Main East Seal No. 10 at Permanent Outby EPs No. 1, No. 2, and No. 3 as designated on the attached map labeled Exhibit B.
 - c. A monitor connected to the mine-wide monitoring system must be located at the Permanent Outby EPs No. 1, No. 2, and No. 3, in the airflow on the downwind side of the sealed area as shown on Exhibit B; and must continuously monitor for methane and oxygen with alert levels at 1% methane and alarm levels at 1.5% methane and 19.5% oxygen.
 - d. When alert levels at the monitor are reached, a certified person must immediately investigate the affected area to evaluate the condition. At alarm levels, power must be de-energized to the adjacent belt entry and all miners must be evacuated from the affected area. No miners shall be permitted to enter the area except for those persons necessary to correct the conditions.
 - e. If investigation at the alert levels determines that the seals are compromised or are not performing their intended function of separating active areas from the worked-out areas for ventilation purposes, then the areas petitioned must be resealed in accordance with applicable standards.
 - f. The AMS monitors located at the Permanent Outby EPs, No. 1, No. 2, and No. 3 shall be installed and maintained in the following manner:
 - i. The monitor utilized must be of a type approved by the Secretary of Labor and appropriate for the use for which it is to be installed.

- ii. The monitor must be installed as part of the mine-wide monitoring system such that methane and oxygen will be monitored continuously.
 - iii. The monitor must be installed by qualified persons and must be maintained in safe operating condition.
 - iv. The monitor must be calibrated every 31 days in accordance with manufacturer specifications by a qualified person and with known concentrations of methane and oxygen.
 - v. All calibrations and daily examinations of the monitor shall be recorded.
 - vi. If alert or alarm levels are reached, they shall be recorded.
2. All monitoring stations and sensor locations and approaches to both stations and sensors shall, at all times, be maintained in safe condition. The roof shall be adequately supported by roof bolts or other suitable means to prevent deterioration of the roof in the vicinity of the stations.
3. Tests for methane, oxygen, and the quantity and quality of air shall be conducted as a preshift examination by a certified person at each station. The date, initials of examiner, time, and results of these evaluations shall be recorded in a book or on a date board that shall be provided at the monitoring stations. Such results shall also be recorded in a book kept on the surface and made accessible to all interested parties.
4. A diagram showing the normal direction of the air current flow at each station shall be posted at each monitoring station. Such a diagram shall be maintained in a legible condition and shall show the cross sectional area to be used in calculating air quantities. Any change in the flow of the air currents shall be reported to the mine foreman for immediate investigation.

5. Methane gas or other harmful, noxious, or poisonous gases shall not be permitted to accumulate in this airway in excess of legal limits. An increase of 0.5 percent methane above the last previous methane reading shall cause an immediate investigation of the affected area. If, at any time, the air quantity at any of the monitoring stations indicates a change in air quantity of ten percent, an immediate investigation of the affected area shall be conducted.
6. The permanent ventilation controls, monitoring stations and atmospheric monitoring system sensor locations shall be shown on the annual mine ventilation map submitted in accordance with 30 CFR 75.372.
7. The mine evacuation plan required by 30 CFR 75.1502 shall be revised to specify the action to be taken to determine the cause of the alert and alarm signals, the location(s) for withdrawal of miners for each alarm signal, the steps to be taken after the cause of an alert signal is determined, and the procedures to be followed if an alarm signal is activated. Such revisions shall be approved by the District Manager. The determination as to the appropriate response to alert and alarm signals generated by oxygen sensors shall be subject to the District Manager approval in the mine's 30 CFR 75.1502 program of instruction. A record of each alert and alarm signal given and the action taken shall be maintained at the mine for a period of 1 year.
8. Any time the District Manager determines that changes are necessary to ensure the air flowing over the monitoring stations is representative of the air flow ventilating the inaccessible return aircourse and inaccessible mine seals, changes shall be made through the mine ventilation plan approval process. Such changes may include:
 - a. relocation of monitoring stations or adding monitoring stations should further roof deterioration render the present locations no longer representative of the air flow ventilating the inaccessible mine seals;
 - b. the installation of additional temporary or permanent ventilation controls;

- c. where the District Manager determines that the above changes to the terms and conditions cannot provide assurance that the Main South seals are intact and effectively isolating the sealed area from the active area of the mine, other actions may be required. Those actions may include any rehabilitation necessary to gain access to the seals or the construction of new mine seals which isolate the failed seals within a larger sealed area while action to revoke this PDO is taken pursuant to 30 CFR 44.52.
9. A sign showing the safe travel route to each monitoring station shall be conspicuously displayed in the main intake haulage entry.
10. Prior to implementing this alternative method, all mine personnel will be instructed not to travel into petitioned aircourses except along designated routes and all other approaches shall be fenced off or barricaded with "DO NOT ENTER" warning signs. Entry in the area shall be permitted only to investigate and correct significant problems with air flow detected through the monitoring process and all such work shall be done under the supervision of an authorized person. All persons who work in this area shall be instructed in the emergency evacuation procedures and all provisions of 30 CFR 75.1502 and §75.383. Mine examiners and persons assigned to work in the vicinity of the petitioned area and in the return downwind of the petitioned inaccessible seals shall be instructed in the potential explosion and asphyxiation hazards associated with the out-gassing from damaged or failed mine seals and alerted to any ignition sources in nearby entries.
11. Prior to implementing this PDO, an inspection shall be conducted by MSHA to ensure that the terms and conditions of this PDO have been complied with and that the miners have been trained in proper evacuation procedures, including instructions and drills in evacuation.
12. Within 60 days after this PDO becomes final, the Petitioner shall submit proposed revisions for its approved 30 CFR Part 48 training plan to the Coal Mine Safety and Health District Manager. These proposed revisions shall specify initial and refresher training regarding the conditions specified by the PDO.

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.

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.

John F. Langton
Deputy Administrator for
Coal Mine Safety and Health

Attachment: Exhibit B

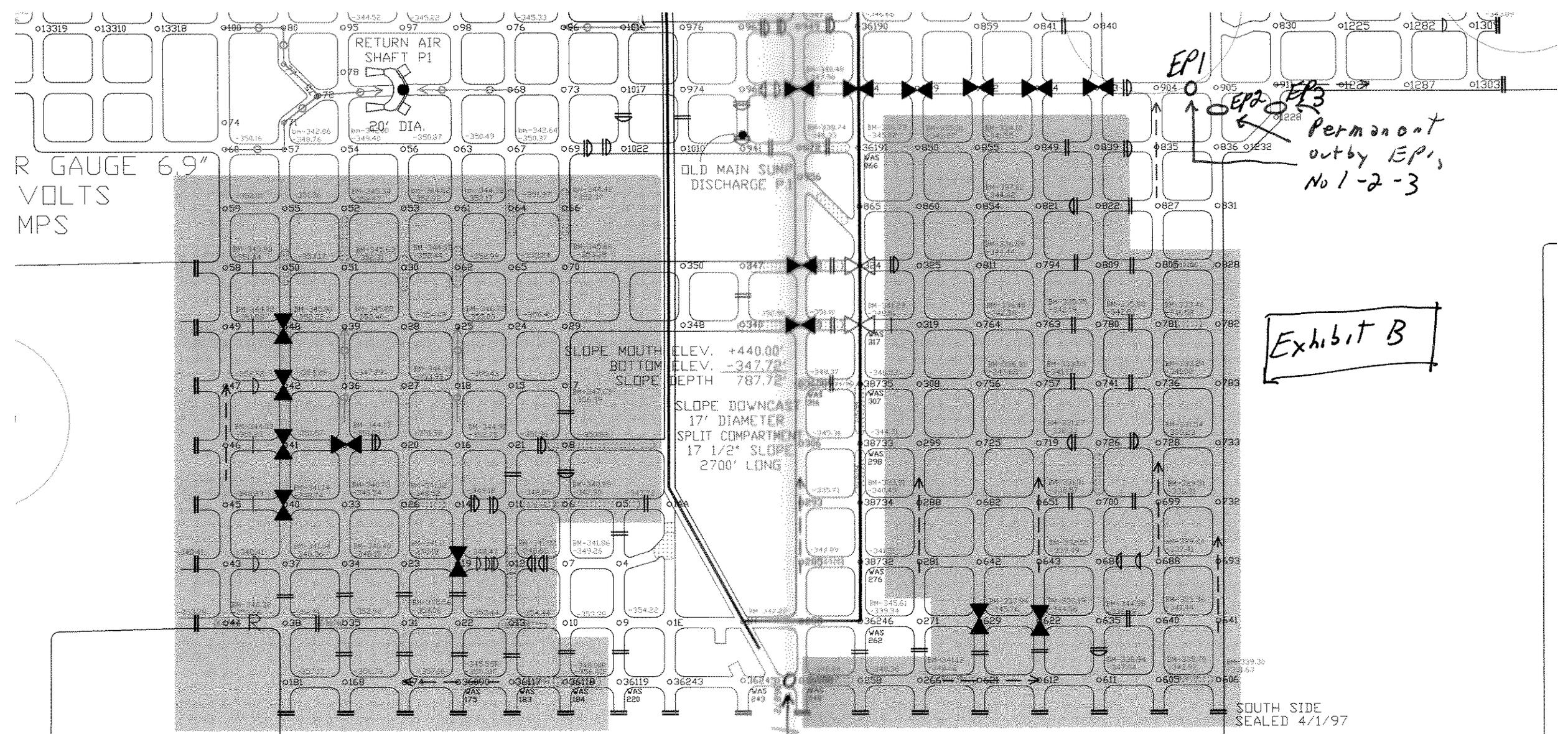


Exhibit B

SOUTH SIDE SEALED 4/1/97

M. Kennard #1
Proj. & Staked orwell

INACCESSIBLE AREAS

SEALED AREA
Intake EP

WABASH MINE

DATE: JAN. 19, 2005

SCALE: 0 200' 400'

Center Sec. 15
T2S, R13W