

November 15, 2005

In the matter of:
Andalex Resources, Inc.
Aberdeen Mine
I.D. No. 42-02028

Petition for Modification

Docket No. M-2005-061-C

PROPOSED DECISION AND ORDER

On August 18, 2005, a petition was filed seeking a modification of the application of 30 CFR 75.500(d) to Petitioner's Aberdeen Mine, located in Carbon County, Utah. 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.

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 recommendations, 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 75.500(d).

On the basis of the petition and the findings of MSHA's investigation, Andalex Resources, Inc. is granted a modification of the application of 30 CFR 75.500(d) to its Aberdeen 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 Andalex Resources, Inc.'s Petition for Modification of the application of 30 CFR 75.500(d) in the Aberdeen Mine is hereby:

GRANTED, for the use of low-voltage or battery powered non-permissible electronic testing and diagnostic equipment in or inby the last open crosscut or within 150 of pillar workings or longwall face, under controlled conditions, for testing and diagnosing the mining equipment, conditioned upon compliance with the following terms and conditions:

1. The use of non-permissible low-voltage or battery-powered electronic testing and diagnostic equipment shall be limited to laptop computers; oscilloscopes; vibration analysis machines; cable fault detectors; point temperature probes; infrared temperature devices and recorders; insulation testers (meggers); voltage, current, and power measurement devices and recorders; pressure and flow measurement devices; signal analyzer devices; ultrasonic thickness gauges; electronic component testers; and electronic tachometers. Other testing and diagnostic equipment may be used if approved in advance by MSHA's District Office.
2. Non-permissible electronic testing and diagnostic equipment shall be used only when equivalent permissible equipment does not exist.
3. All other test and diagnostic equipment used within 150 feet of pillar workings shall be permissible.
4. All non-permissible electronic testing and diagnostic equipment used in or inby the last open crosscut or within 150 feet of pillar workings or longwall face shall be examined by a qualified person as defined in existing 30 CFR 75.153, prior to being used to ensure the equipment is being maintained in a safe operating condition. The examination results shall be recorded in the weekly examination of electrical equipment book and shall be made available to an authorized representative of the Secretary and the miners at the mine.
5. A qualified person as defined in existing 30 CFR 75.151 shall continuously monitor for methane immediately before and during the use of non-permissible electronic test and diagnostic equipment in or inby the last open crosscut or within 150 feet of pillar workings or longwall face.

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5. A qualified person as defined in existing 30 CFR 75.151 shall continuously monitor for methane immediately before and during the use of non-permissible electronic test and diagnostic equipment in or inby the last open crosscut or within 150 feet of pillar workings or longwall face.

6. Non-permissible electronic testing and diagnostic equipment shall not be used if methane is detected in concentrations at or above 1.0 percent methane. When 1.0 percent or more of methane is detected while the non-permissible electronic equipment is being used, the equipment shall be de-energized immediately and the non-permissible electronic equipment withdrawn outby the last open crosscut or to a minimum of 150 feet outby the pillar workings or longwall face.
7. All hand-held methane detectors shall be MSHA-approved and maintained in permissible and proper operating condition as defined in existing 30 CFR 75.320.
8. Except for the time necessary to troubleshoot under actual mining conditions, coal production in the section shall cease. However, coal may remain in the equipment in order to test and diagnose the equipment under load.
9. Non-permissible electronic test and diagnostic equipment shall not be used to test equipment when float coal dust has accumulated on previously rockdusted surfaces, accumulated on equipment, and/or when float coal dust is in suspension.
10. All electronic test and diagnostic equipment shall be used in accordance with the manufacturer's recommended safe use procedures.
11. Cables supplying power to low-voltage test and diagnostic equipment shall be continuous in length or provided with a "twist-lock" type connector when used in or inby the last open cross-cut or within 150 feet of pillar workings or longwall face.
12. Qualified personnel engaged in the use of electronic test and diagnostic equipment shall be properly trained to recognize the hazards and limitations associated with the use of electronic test and diagnostic equipment.
13. The non-permissible low-voltage or battery-powered electronic testing and diagnostic equipment shall not

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12. Qualified personnel engaged in the use of electronic test and diagnostic equipment shall be properly trained to recognize the hazards and limitations associated with the use of electronic test and diagnostic equipment.
13. The non-permissible low-voltage or battery-powered electronic testing and diagnostic equipment shall not

be put into service until MSHA has inspected the individual types of equipment and determined that it is in compliance with all the above terms and conditions. The Petitioner shall notify MSHA before additional non-permissible electronic testing and diagnostic equipment is put into service in or inby the last open crosscut or within 150 feet of pillar workings or longwall faces. The notice shall provide a reasonable time for MSHA to inspect such equipment before it is used.

14. The petitioner shall include the above terms and conditions in the initial and annual refresher training as required in its approved Part 48 training plans to ensure that miners are aware of the stipulations contained in this petition.

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 22209-3939.

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 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