

In the matter of:
Blue Mountain Energy Inc
Deserado Mine
I.D. No. 05-03505

Petition for Modification

Docket No. M-2009-023-C

PROPOSED DECISION AND ORDER

On May 11, 2009 a petition was filed seeking a modification of the application of 30 C.F.R. § 75.380(d)(4)(iv) to Petitioner's Deserado Mine located in Rangely, Rio Blanco County, Colorado. 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.

The standard states in pertinent part that each escapeway shall be:

- (4) Maintained at least 6 feet wide except—
 - (iv) Where mobile equipment near working sections, and other equipment essential to the ongoing operation of longwall sections, is necessary during normal mining operations, such as material cars containing rock dust or roof control supplies, or is to be used for the evacuation of miners off the section in the event of an emergency. In any instance, escapeways shall be of sufficient width to enable miners, including disabled persons, to escape quickly in an emergency. When there is a need to determine whether sufficient width is provided, MSHA may require a stretcher test where 4 persons carry a miner through the area in question on a stretcher[.]

The petitioner is seeking to establish that the monorail system that carries a power center, power cables, water hoses to provide water for the continuous miner, rock dust/fire extinguisher station(s), additional first aid station(s), and other miscellaneous items meets the definition of "mobile equipment" as defined in 30 C.F.R § 18.2, which reads "Mobile equipment means equipment that is self-propelled." The monorail system utilizes three air-powered tractors with rubber wheels that pull the equipment, cables, and hoses along the rails. Upon establishing that the monorail system is mobile equipment, the petitioner asks that a reduction of the width of the working section's alternate escapeway be granted so that the escapeway can be moved to the #1 conveyor belt haulage entry. The alternate escapeway is currently the #3 return air course entry. The reduction is requested to allow the petitioner to install the mobile equipment

(monorail system) parallel to the belt conveyor haulage system for a maximum distance of 500 feet.

According to the petitioner, these changes will reduce injuries associated from the repeated manual handling and movement of the power cables, water hoses, and other mobile equipment. By placing the power center and other mobile equipment on the monorail system, the push-pull system will automatically move the power center along with the other equipment installed on the monorail system.

The Petitioner maintains that moving the alternate escapeway from the #3 return air course entry to the #1 belt haulage entry and providing the safety measures through the affected 500 foot area identified in the proposed Petition for Modification, would ensure passage of all persons, including disabled persons, and would provide an equal level of safety for the miners as provided by § 75.380(d)(4).

The petitioner proposes the following additional precautions:

- (a) Reflective signs indicating "Limited Clearance" shall be posted and maintained at both ends of the entire affected area where the clearance is less than 6 feet.
- (b) All employees required to work on the development section inby the affected area shall be instructed on the impact of limited clearance and the importance of maintaining the escapeway in safe and travelable condition.
- (c) The walkway will be keep free of all hazards and obstructions. All extraneous material not essential to the mining process (such as, spare parts, loose rock and debris) shall be removed to ensure a safe, travelable walkway.
- (d) Roof bolts installed as primary roof supports shall not be used in mounting the monorail system. Supplemental roof bolts will be utilized for mounting the monorail system.
- (e) Roof bolts used to support the monorail shall be of suitable length or type to assure the monorail is anchored in competent roof or designed for the roof structure and will be of suitable strength to support the monorail and the suspended equipment.

Furthermore, the petitioner states that by moving the alternate escapeway to the #1 belt haulage entry it will:

- (a) allow for easier maintenance of the escapeway outby the monorail;
- (b) upon changing from a development section to a longwall retreating section, it will make it easier and more consistent in training the miners;
- (c) provide that the belt entry will be the alternate escapeway, and would not require that SCSRs, communications, tracking, and lifelines be moved from the return air course at the start of longwall retreat to the belt entry as is currently the case;
- (d) provide that the alternate escapeway will remain in the same entry (belt entry) from initial development to the completion of retreat mining;
- (e) provide for increased examinations. The return entry is examined by a certified person at least every seven days and the belt entry is examined once each shift or has a preshift examination in the event miners are scheduled to work or travel the area.

MSHA personnel conducted an investigation of the proposed 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 is issued.

Findings of Fact and Conclusion of Law

30 C.F.R. § 75.380(d)(4)(iv) requires that escapeways be maintained at least six feet wide except, where mobile equipment near working sections is necessary during normal mining conditions. The regulation in 30 C.F.R § 18.2, reads "Mobile equipment means equipment that is self-propelled". The American Heritage® Dictionary of the English Language, 4th edition Copyright © 2010, defines self-propelled as "containing its own means of propulsion". MSHA has determined that the monorail system would meet the definition of mobile equipment.

The standard at 75.380(d)(4)(iv) states that each escapeway must be maintained at least 6 feet wide except where mobile equipment near working sections, and other equipment essential to the ongoing operation of longwall sections, is necessary during normal mining operations. Necessary equipment can include supply cars with rock dust, roof control materials and other safety related materials, or cars used to transport miners off the section in the event of an emergency. Additionally, longwall section equipment commonly includes, but not limited to, starter box, water pump, section belt tailpiece and takeup assembly, section transformer, and emulsion pump. Because this

equipment is necessary to the operation of the longwall, it also is permitted to be in the escapeway near the working section¹. The monorail system was designed and installed to provide ease of movement for the components necessary to the operation of the longwall, and not as mobile equipment necessary for the operation of the working section. Further, the monorail system was not designed and is not being operated as a supply car to transport materials such as rock dust, roof support material or other safety related materials, or used to transport miners off the section in the event of an emergency.

The Petitioner's proposed alternative method can be summarized as the use of a monorail cable and water hose handling system, which reduces injuries from handling heavy and awkward cables and hoses in an escapeway entry where the escapeway width is reduced, but still allows an effective escapeway. The monorail system also includes the section power center, which will eliminate the need to use other mining equipment, such as diesel-powered scoops, during the movement of the section power system.

MSHA's investigation has determined that several areas along the belt haulage entry would be difficult to provide and maintain a minimum of 48 inches of clear travelway clearance. The walkway clearances adjacent to the feeder, at the power centers, and along areas where the cable and hoses were located during the collapse of the monorail dollies were measured to be from 2.1 to 3.4 feet. The normal mine entry width of the belt haulage entry is approximately 18 feet. The operator utilizes a 72-inch belt conveyor system that is positioned 48 to 60 inches (4.5 feet average) from the solid block rib. The power centers were measured to be 3.8 feet wide by 14.5 feet long. Even if the belt system was perfectly situated, the clear walkway space would be approximately 7.5 feet (18 feet - 4.5 feet - 6 feet). If the width of the power centers plus one foot of clearance further reduced the distance by 4.8 feet, the resulting clear travelway at the transformers is reduced to 2.7 feet. During the collapse of the dollies on the monorail system holding the cables and hose, the clear travelway may be reduced and impede the travel of miners, including disabled persons during an emergency. MSHA has recommended changing the location of the transformers on the monorail system, movement of the feeder-breaker and beltline to the non-walkway side of the entry, and hanging the belt at the feeder area, to provide 48 inches of clear travelway for the escapeway.

MSHA's investigation does support the Petitioner's assertion that the use of the monorail system should reduce injuries that are associated with the moving of power

¹ Federal Register / Vol. 61, No. 48 / Monday, March 11, 1996 / Rules and Regulations

center and cables. With the reduced handling of the suspended mobile equipment, strains, sprains, and other injuries likely would be reduced.

During the course of MSHA's investigation, the petitioner made several points in support of the alternate escapeway in the belt entry. Petitioner contends that moving the alternate escapeway to the #1 belt haulage entry will allow for easier maintenance of the escapeway outby the monorail. However, the escapeways are required to be maintained as outlined in 30 C.F.R. § 75.380(d) regardless of their location.

Petitioner further states that upon changing from a development section to a longwall retreating section, moving the alternate escapeway will make it easier and more consistent in training the miners. MSHA's position is that miners are required to be trained as to the location of the escapeways and when the escapeways have changed under the Emergency Response Plan (MINER Act), the Firefighting Program of Instruction (30 C.F.R. § 75.1502), and 30 C.F.R. § 48.

In addition, Petitioner states that if the belt entry will be the alternate escapeway, it would not require that SCSRs, communications, tracking, and lifelines be moved from the return air course at the start of longwall retreat to the belt entry, as is currently the case. MSHA's position is that Self Contained Self Rescuers (SCSRs) are required to be stored in accordance with 30 C.F.R. § 75.1714-2 through 75.1714-4. Communications and Tracking are required in accordance with the approved Emergency Response Plan. The escapeway must be provided with a continuous lifeline throughout the entire length of the escapeway as required by 30 C.F.R. § 75.380(d)(7).

Finally, the Petitioner asserts that moving the alternate escapeway to the #1 belt haulage entry will provide for increased examinations. MSHA's position is that a certified person examines the return entry at least every seven days and the belt entry is examined once each shift or has a preshift examination in the event miners are scheduled to work or travel the area. Examinations of return air courses are required to be conducted each 7 days as outlined in 30 C.F.R. § 75.364(b)(2) and each belt haulage entry is examined during each shift that coal is produced and the conveyor is operated as outlined in 30 C.F.R. § 75.362(b). The belt haulage or return air courses must also be examined by a preshift examiner as outlined in 30 C.F.R. § 75.360(a)(1) where any person is scheduled to work or travel underground (except examiners or pumpers). The application of these alternative measures would provide only a marginal safety benefit.

The current escapeway provided in the #3 return air course entry provides a travelway which can be maintained to the required width of 6 feet. The use of the return as an escapeway would require the miners to travel in a return air course and prolong their exposure to potential smoke and deadly or harmful gases. Fan pressures, the extent of

ventilation control damage, and the extent of the fire or explosion would dictate the extent and exposure to the smoke and gases that miners may encounter. The proposed escapeway in the #1 belt haulage entry is ventilated by a neutral split of air, which is regulated at the mouth of the section. The split of air would also be affected by smoke or gases but to a much lesser degree, depending upon the extent and location of ventilation control damage, and extent of the fire or explosion.

In conclusion, MSHA recommends that a minimum clearance of 48 inches must be maintained along the #1 belt haulage entry when used as an alternate escapeway. Established escapeway routes are to be maintained to allow miners to transport injured co-workers on stretchers in the event of an emergency evacuation of the mine is required. During these emergencies, miners might have to travel through a smoke filled entry, with little or no ventilation. Miners carrying a co-worker on a stretcher, under stress and relying upon oxygen tanks, would be seriously impeded and put at increased risk by travelways that are reduced to less than 48 inches, even through areas of shorter length.

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 C.F.R. § 75.380(d)(4).

On the basis of the petition and the findings of MSHA's investigation, Blue Mountain Energy, Inc is granted a modification of the application of 30 C.F.R. § 75.380(d)(4)(iv) to its Deserado 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 Blue Mountain Energy Inc's Petition for Modification of the application of 30 C.F.R. § 75.380(d)(4) to its Deserado Mine is hereby:

GRANTED, for the "monorail area," immediately outby the feeder breaker for a maximum distance of 650 feet in the belt entry of each working section, conditioned upon compliance with the following terms and conditions:

1. A minimum alternate escapeway width of 48 inches must be maintained in the "monorail area." The minimum escapeway width shall be provided by changing the location of the transformers on the monorail system, moving the feeder-breaker and beltline to the non-walkway side of the entry, hanging the

belt at the feeder area, and / or by other means that provides 48 inches of clear travelway for the escapeway.

2. Reflective signs indicating "Tight Clearance" shall be posted and maintained at both ends of the affected area.
3. Instructions on the impact of limited clearance and the importance of maintaining the escapeway in safe and travelable conditions shall be given to all employees required to work on the working section inby the affected area.
4. The walkway shall be kept free of accumulations of mud, water and all other hazards and obstructions. All extraneous material (spare parts, loose rock and debris, etc.) shall be removed to ensure a safe, travelable walkway.
5. The roof bolts installed as primary roof support shall not be used in mounting the monorail system; supplemental roof bolts are required.
6. Roof bolts used to support the monorail shall be of suitable length to ensure the monorail is anchored in competent roof and roof bolts shall be of suitable strength to support the monorail and the suspended equipment.
7. High-pressure pumps and hoses installed on the monorail shall be guarded or secured to protect persons from broken high-pressure hoses and oil spray while traveling or working along the monorail.
8. The areas of the alternate escapeway where this proposed decision and order (PDO) is in effect shall be identified on the escapeway map required at 30 C.F.R. 75.1505.
9. The conveyor belt shall be stopped whenever an injured person is transported through a reduced clearance area of the conveyor belt entry (alternate escapeway). A conspicuously marked belt control switch shall be provided at the inby end of each area of reduced clearance.
10. Prior to implementing this PDO, all persons who work in the affected area shall be instructed in the provisions of this order and the emergency evacuation procedures.
11. In the event the minimum width as outlined in Item 1 cannot be achieved or maintained, mining shall cease until the alternate escapeway has met the

required minimum distance or, the escapeway has been routed to an alternate route meeting the requirements of the petitioned standard.

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