

May 10, 2006

In the matter of  
Frontier-Kemper Constructors, Inc.  
BHP Copper, Inc.  
ID No. 02-00151

Docket No. M-94-28-M

PROPOSED DECISION AND ORDER TO REVOKE

On April 18, 1996, Frontier-Kemper Constructors, Inc. (Frontier-Kemper) was granted a petition for modification at BHP Copper, Inc.'s (formerly Magma Copper Company) San Manuel Mine, (I.D. No. 02-00151) 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 TBM Tunnel Drift .

FINDINGS OF FACT AND CONCLUSIONS OF LAW

MSHA Rocky Mountain District personnel determined that the conditions that required modification of the mandatory standard no longer exist. All underground work has ceased and all shafts have been sealed. 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 San Manuel Mine, is hereby **REVOKED**.

/s/ Felix Quintana

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