



**Issue Date: 27 June 2019**

CASE NO.: 2018-MSA-00003

*In the Matter of*

CANYON FUEL COMPANY, LLC,  
Petitioner,

v.

MINE SAFETY AND HEALTH ADMINISTRATION (MSHA),  
Party Opposing the Petition.

**DECISION AND ORDER**  
**APPROVING CONSENT ORDER**

This case arises under Section 101(c) of the Federal Mine Safety & Health Act of 1977, 30 U.S.C. §§ 951-961, and accompanying regulations found at 30 C.F.R. Part 44. On June 21, 2019, pursuant to 30 C.F.R. § 44.27, the parties submitted a signed Consent Order that resolved all issues pending for hearing.

Having reviewed the submitted documentation, I find that the Consent Order is appropriate in form and substance and clearly details the respective duties and obligations of the parties pursuant to the agreement. Further, the Consent Order lists the required findings as specified in the cited regulations. *See* 30 C.F.R. § 44.27(b). Specifically, this Decision and Order shall have the same force and effect as an order made after a full hearing; the entire record on which this Decision and Order is based shall consist solely of the Consent Order together with the petition for modification; all further procedural steps before the Administrative Law Judge and the Assistant Secretary for Mine Safety and Health are waived; and any right to challenge or contest the validity of the Consent Order or this Decision and Order are waived. The specific requirements of the Consent Order are listed below and are incorporated into this Decision and Order. The Consent Order is hereby adopted and approved.

**CONSENT ORDER**

Under 30 C.F.R. part 44, Petitioner, Canyon Fuel Company, LLC, and Party Opposing Petition, Mine Safety and Health Administration (MSHA), agree to this Consent Order to resolve the above-referenced matter.

1. On February 3, 2017, Canyon Fuel Company, LLC filed a petition seeking a modification of the application of 30 C.F.R. § 75.350(a) to Petitioner's Sufco Mine. MSHA

determined that Petitioner initially petitioned the wrong standard and considered the petition as a petition of 30 C.F.R. § 75.350(b)(5).

2. Petitioner agrees that 30 C.F.R. § 75.350(b)(5) is the proper standard to which this petition relates.

3. Petitioner agrees to withdraw its request for a hearing on this petition for modification.

4. Both Petitioner and MSHA understand and consent that the Proposed Decision and Order denying the petition is modified by this Consent Order and that this Consent Order shall have the same effect as if issued as the Administrative Law Judge's decision following a full hearing.

5. Petitioner's Sufco Mine may use belt air in two-entry longwall mining systems and use of belt air course as a return air course, conditioned upon compliance with all of the terms and conditions that follow this paragraph.

6. Two-entry development will be permitted only when the overburden in the area to be longwall mined exceeds 1,900 feet in depth within the given panel.

7. Additional entries may be developed when needed for bleeder entries as approved by the District Manager in the ventilation and roof control plans.

8. Additional requirements follow in paragraphs labelled (I) through (VI).

I. Requirements Applicable to Two-Entry Development, Longwall Installation and Recovery, and Retreat Mining Systems.

(A) An atmospheric monitoring system (AMS) for early warning fire detection shall be utilized throughout the two-entry system. All sensors that are part of the AMS shall be diesel-discriminating (carbon monoxide and nitric oxide) sensors.

(B) The belt air course shall be separated with permanent ventilation controls from return air courses and from other intake air courses except as provided within this PDO. The belt air course is defined as the entry in which a belt is located and any adjacent entry(ies) not separated from the belt entry by permanent ventilation controls, including any entries in series with the belt entry, terminating at a return regulator, a section loading point or the surface:

(C) The maximum air velocity in the belt entry shall be no greater than 500 feet per minute, unless otherwise approved in the mine ventilation plan.

(D) Air velocities shall be compatible with all fire detection systems and fire suppression systems used in the belt entry.

(E) The belt entry, the primary escapeway, and other intake entry(ies) if used, shall be equipped with an AMS that is installed, operated, examined, and maintained as specified within this Petition.

(F) All miners shall be trained annually in the basic operating principles of the AMS, including the actions required in the event of activation of any AMS alert or alarm signal. This training shall be conducted prior to the development of any portion of the two-entry mining system. This training shall be conducted as part of a miner's 30 C.F.R. Part 48 new miner training (§ 48.5), experienced miner training (§ 48.6), or annual refresher training (§ 48.8).

(G) Mantrip cars, personnel carriers, or other transportation equipment shall be maintained on or near the working section and on or near areas where mechanized mining equipment is being installed or removed, be of sufficient capacity to transport all persons who may be in the area, and be located within 300 feet of the section loading point or proposed section loading point.

- (H) Fire doors designed to quickly isolate the working section shall be constructed in the two entries for use in emergency situations. The fire doors shall be maintained operable throughout the duration of the two-entry panel. A plan for the emergency closing of these fire doors, notification of personnel, and de-energization of electric power in by the doors shall be included in the 30 C.F.R. § 75.1502 mine emergency evacuation and firefighting program of instruction plan.
- (I) Communication and tracking systems shall be installed and maintained according to the approved Emergency Response Plan (ERP) and be subject to approval by the District Manager.
- (J) In addition to the requirements of 30 C.F.R. § 75.1100-2(b), firehose outlets with valves every 300 feet shall be installed along the intake entry. At least 500 feet of firehose with fittings and nozzles suitable for connection with the outlets shall be stored at each strategic location along the intake entry. The locations shall be specified in the 30 C.F.R. § 75.1502 mine emergency evacuation and firefighting program of instruction plan.
- (K) Compressor stations and unattended portable compressors shall not be located in the two-entry panel.
- (L) Coal burst hazards shall be assessed as per Program Information Bulletin (PIB) P15-03 and reflected in the approved roof control plan.

## II. Additional Requirements Applicable to the Development of Two-Entry Panels.

- (A) Diesel-discriminating sensors shall be installed in the belt conveyor entry within 25 feet in by and out by the crosscut where return air is directed out of the belt conveyor entry.
- (B) A mechanical rock-dusting machine or the discharge hose of a mechanical rock-dusting machine shall be installed in the belt conveyor entry near the section loading point of each two-entry development section. These mechanical rock-dusting machines shall be operated continuously when coal is being produced to render inert the float coal dust in these entries, except when miners are performing maintenance, inspections, or other required work in these areas. The District Manager may approve alternate rock-dusting locations.
- (C) A methane monitoring system shall be incorporated into the AMS and be installed to monitor the air in each belt haulage entry. Methane sensors shall be located so that the belt air is monitored near the mouth of the development, near the tailpiece of the belt conveyor, and at or near any secondary belt drive unit installed in the belt haulage entry.
- (D) The methane monitoring system shall be capable of providing both audible and visual signals on both the working Section and at a manned location on the surface of the mine where personnel shall be on duty at all times when miners are underground in a two-entry section or when a conveyor belt is operating in a two-entry section. This trained person at the surface shall have two-way communication with all working sections. The system shall initiate alarm signals when the methane level is 1.0 volume per centum. The methane monitoring system shall be designed and installed to de-energize the belt conveyor drive units when the methane level is 1.0 volume per centum. Upon notification of the alarm, miners shall de-energize all other equipment located on the section.

III. Additional Requirements Applicable to Retreat Mining of the Panels and Longwall Installation and Recovery.

- (A) Two separate intake air courses within each longwall panel shall be provided to each two-entry longwall. Both air courses may be located on the same side of the panel; however, the air shall travel in a direction from the mouth of the panel toward the section.
- (B) The average concentration of respirable dust in the belt air course, when used as an intake air course, shall be maintained at or below 0.5 mg/m<sup>3</sup>. A permanent designated area (DA) for dust measurements shall be established at a point no greater than 50 feet upwind from the most outby open crosscut on the working section. The DA shall be specified and approved in the ventilation plan.
- (C) Unless approved by the District Manager, no more than 50% of the total intake air delivered to the working section or to areas where mechanized mining equipment is being installed or removed can be supplied from the belt air course. The locations for measuring air quantities shall be approved in the mine ventilation plan.
- (D) Notwithstanding the provisions of 30 CFR § 75.380(g), additional intake air may be added to the belt air course through a point-feed regulator that is not located within a two-entry panel (i.e. main belt), to ventilate the working section(s). The location and use of any point feed shall be approved in the mine ventilation plan.
- (E) During longwall retreat mining, a mechanical rock-dusting machine or the discharge hose of a mechanical rock-dusting machine shall be installed at or near the last tailgate shield. These rock-dusting machines shall be operated continuously when coal is being produced to render inert float coal dust in these entries. Exceptions to continuous operation of the rock-dusting units shall be when miners are performing maintenance, inspections, or other required work in these areas. The District Manager may approve alternate rock-dusting locations.
- (F) When the hydraulic fluid pump station for the longwall support system is located in the two-entry system, it shall be installed and maintained as follows:
  - (1) The pumps and electrical controls shall be equipped with an automatic fire suppression system.
  - (2) Only MSHA-approved fire resistant hydraulic fluid of the "high water content group," such as Isosynth VX 110BF2 or similar, shall be used.
  - (3) The pump station shall be maintained to within 1,500 feet of the longwall face.
  - (4) In addition to the concentrate contained as part of the hydraulic pump system, hydraulic concentrate stored in the two-entry system shall be limited to 500 gallons.
  - (5) A diesel-discriminating sensor shall be installed between 50 and 100 feet downwind of the hydraulic pump station. The sensor shall be installed in a location that will detect carbon monoxide caused by a fire and that will minimize the possibility of damage by mobile equipment.
  - (6) . Whenever the transformer supplying power to the hydraulic pumping station is located in the intake entry, the transformer shall be:
    - (a) Maintained within 1,500 feet of the longwall face.
    - (b) Provided with a diesel-discriminating sensor that is located on the inby side of the transformer in a location that shall detect carbon monoxide caused by a fire and that shall minimize the possibility of damage by mobile equipment.

- (c) Provided with an over-temperature device that shall de-energize the pumping station when the temperature reaches 165 degrees Fahrenheit.
- (7) Each hydraulic pump shall be provided with an over-temperature device that automatically de-energizes the motor on which it is installed. De-energization shall take place at a temperature of not more than 210 degrees Fahrenheit. The over-temperature device shall be installed to monitor the circulating oil for the pump or the external pump case housing.
- (8) MSHA shall be informed prior to the initial startup of the pumping system so an inspection by MSHA can be conducted.

IV. Requirements Applicable to Two-Entry Development, Longwall Installation and Recovery, and Retreat Mining Systems when Diesel-Powered Equipment is Operated on a Two-Entry System.

- (A) The following administrative controls shall be used:
  - (1) The number and type of pieces of diesel equipment in the two-entry system shall be minimized. A list of diesel equipment and their associated air quantity requirements shall be provided at the designated surface location for use by the AMS operator. A whiteboard or similar method shall be used by the AMS operator to keep a total of the air requirements of all diesel equipment operating in the two-entry system.
  - (2) The AMS operator shall prohibit diesel equipment from entering the two-entry system when the total air required by all operating diesel equipment within the two-entry system exceeds the air quantity measured in the intake diesel roadway.
  - (3) The intake diesel roadway air quantity shall be measured within three crosscuts outby the section loading point and shall be included in all 30 C.F.R. § 75.360 preshift examinations. Prior to entering or leaving a two-entry section, all diesel equipment operators shall report to the designated AMS operator.
- (B) Except ambulances used for emergencies only, all diesel powered equipment not approved and maintained under 30 C.F.R. Part 36 operated on any two-entry system shall:
  - (1) Include an automatic and manually activated fire suppression system meeting the requirements of 30 C.F.R. § 75.1911. The manual fire suppression system shall be capable of being activated from both inside and outside the machine's cab. The manual actuator located outside the cab shall be on the side of the machine opposite the engine. Both of these systems shall be maintained in operating condition.
  - (2) Include an automatic engine shut down/fuel shut-off system, tied into the activation of the fire suppression system, which shall be maintained in operating condition.
  - (3) Include an automatic closing, heat-activated shut-off valve, maintained in operating condition, on diesel fuel lines either located between the fuel injection pump and fuel tank if the fuel lines are constructed of steel or located as close as is practical to the fuel tank.
  - (4) Include a means such as shielding, conduit, or non-abrasive insulting material that is maintained in operating condition, to prevent the spray from ruptured diesel fuel, hydraulic oil, or lubricating oil lines from being ignited by contact

- with engine exhaust system component surfaces such as shielding, conduit, or non-absorbent insulating materials.
- (5) For diesel equipment classified as "heavy-duty" and equipment classified as light duty but capable of performing work as heavy-duty equipment under 30 C.F.R. § 75.1908(a), include a means, maintained in operating condition, to maintain the surface temperature of the exhaust system of diesel equipment below 302 degrees Fahrenheit. Road graders are considered heavy-duty under 30 C.F.R. § 75.1908(a).
  - (6) Include a sensor to monitor the temperature and provide visual warning of an overheated cylinder head on air-cooled engines.
- (C) The following types of diesel-powered equipment, which are not approved and maintained under Part 36 or 30 C.F.R. Part 7, can be used in the two-entry system, except where permissible equipment is required, provided no one is in by the work area:
- (1) diesel-powered rock dust machine;
  - (2) diesel-powered generator; and
  - (3) diesel-powered road grader.
- (D) Diesel fuel shall not be stored in the two-entry system. Diesel-powered equipment not approved and maintained under Part 36 shall not be refueled in the two-entry system.
- (E) Diesel equipment shall not be used for face haulage equipment on the working section, but diesels may be used on the working section for cleanup, setup, and recovery, or similar non-coal haulage purposes.
- (F) If non-Part 36 diesel-powered equipment needs to be jump-started due to a dead battery in any two-entry system, a methane check by a qualified person using an MSHA-approved detector shall be made prior to attaching the jumper cables. The equipment shall not be jump-started if air contains 1.0 volume per centum or more of methane.
- (G) A diesel equipment maintenance program shall be adopted and complied with by the operator. The program shall include the examinations and tests specified in the manufacturers' maintenance recommendations as they pertain to diesel carbon monoxide emissions. A record of these examinations and tests shall be maintained on the surface and be made available to all interested persons.
- (H) Diesel Powered equipment man-trips will not be left to idle in the two entry areas. The machine will be turned off when the operator must exit.

#### V. Atmospheric Monitoring System.

In addition to the terms and conditions contained in this petition the Atmospheric Monitoring System shall be installed, operated, examined and maintained and training conducted in accordance with the provisions contained in 30 C.F.R. §§ 75.350, 75.351 and 75.352. Training on the AMS shall also be conducted in accordance with these provisions.

#### VI. Implementation and Training Requirements.

- (A) Prior to implementing this PDO, an inspection shall be conducted by MSHA to ensure that the terms and conditions of this PBO have been complied with.
- (B) . Prior to implementing this PDO, the Petitioner shall have an approved 30 C.F.R. Part 48 training plan that complies with:
  - (1) All conditions specified by this PDO

- (2) Training on the fire suppression systems used on diesel equipment used in the two-entry system.
  - (3) Training for miners working around the hydraulic pumping station when the hydraulic pumping station for the longwall supports is located in the two-entry system.
  - (4) Training for miners for emergency closing of fire doors and permanent ventilation control devices, notification of personnel, and de-energization of electric power within the longwall district.
  - (5) Training for miners in accordance with the 30 C.F.R. § 75.1502 mine emergency evacuation and firefighting program of instruction.
  - (6) The approved SCSR storage plan.
  - (7) The approved ventilation plan.
  - (8) The approved Emergency Response Plan.
- (C) The terms and conditions of this PDO will not apply during the time period from completion of the development mining of the two-entry longwall panel until the beginning of the longwall equipment set-up activities, provided the conveyor belt in the two-entry panel is not energized. During this time period, all other mandatory standards will apply.

The parties having resolved all the issues pending for hearing, and having approved their Consent Order, the matter is hereby dismissed. All dates are vacated.

SO ORDERED.

RICHARD M. CLARK  
Administrative Law Judge