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SOL (MSHA) V. BONANZA MATERIALS  
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Federal Mine Safety and Health Review Commission (F.M.S.H.R.C.)  
Office of Administrative Law Judges

SECRETARY OF LABOR,  
MINE SAFETY AND HEALTH  
ADMINISTRATION (MSHA),  
PETITIONER

CIVIL PENALTY PROCEEDING

Docket No. WEST 87-85-M  
A.C. No. 26-01488-05506

v.

Bonanza Materials Mine

BONANZA MATERIALS, INC.,  
RESPONDENT

DECISION

Appearances: Marshall P. Salzman, Esq., Office of the Solicitor,  
U.S. Department of Labor, San Francisco, California,  
for Petitioner; Mr. Boyd Anderson, Manager,  
Bonanza Materials, Inc., Henderson, Nevada, pro se.

Before: Judge Cetti

Statement of the Case

This is a civil penalty proceeding filed by the petitioner against the respondent pursuant to Section 110(a) of the Federal Mine Safety and Health of 1977, 30 U.S.C. 820(a), seeking civil penalty assessments in the amount of \$1,008.00 for nine alleged violations of certain mandatory safety standards found in Title 30 Code of Federal Regulations.

On September 24, 1986, MSHA Inspector Ronald Berry accompanied by Paul Price, an electrical engineer with MSHA, conducted an inspection of the Bonanza Materials Mine. As a result of that inspection MSHA issued to the operator the nine citations at issue in this proceeding. Seven of the citations charged the operator with improper grounding in violation of Title 30 C.F.R. 56.12025. The remaining two citations charged the operator with electrical fitting and bushing violations proscribed by Title 30 C.F.R. 56.12008.

This proceeding was initiated by the Secretary filing a petition for assessment of a civil penalty pursuant to Section 110(a) of the Mine Act. The respondent Bonanza Materials Inc.,

~242

filed a timely answer contesting the existence of all the violations. After proper notice to the parties an evidentiary hearing on the merits was held before me on November 18, 1987.

#### Stipulations

At the hearing the parties entered into the following stipulations:

1. The respondent is the operator of the Bonanza Materials mine and is subject to the jurisdiction of the Mine Act.

2. The presiding judge has jurisdiction to hear and decide this case.

3. Respondent is a moderate size company having approximately 13,000 man hours per year.

4. Respondent has a moderate history having had seven assessed violations in the previous four years.

5. Respondent exercised good faith in its prompt abatement of the violations.

6. The imposition of the proposed civil penalties for the violations in question will not affect the ability of the respondent to continue in business.

7. If the existence of a violation is established the appropriate penalty is the original penalty proposed by the Secretary of Labor.

#### Issue

The existence of each of the violations alleged in the nine citations at issue.

#### Summary of Evidence

MSHA presented evidence that it inspected and investigated the electrical system including the grounding system in the plant's crushing area. Respondent has a high voltage electrical power coming into the main unit transformer located just outside the control room. The voltage is reduced from the power company voltage down to 440 volts and then distributed to different areas throughout the plant. The power goes through the control room where it is distributed to the individual motors that drive the crushers, conveyors and screens.

~243

Citation No. 2674141

Mr. Price, an experienced electrical engineer, testified that he inspected the switch gears in the switch gear room located just below the control room. These switches and starters are used to distribute the 440 volt power to the individual motors in the plant. He found the starters and switches were not grounded properly because they did not have a grounding conductor that went "all the way back to the grounding source of the main transformer." He explained that although a metal conduit properly installed may be used as a grounding conductor the conduit involved in this citation did not have the special bonding lock nuts that assure the maintenance of the continuity of the grounding circuit. In addition the conduit was made of plastic and consequently could not be used for a grounding conductor since plastic will not conduct electricity.

On checking with an OHM meter it was found that there was no continuity to ground. There was no grounding circuit.

Respondent presented no contrary evidence.

Citation No. 2674142

The petitioner presented evidence that there was no ground on the 440 volt mud pump drive motor. This pump was located close to the ground in a wet area. There was no observable ground wire and on checking for continuity with an OHM meter it was found that there was no continuity.

Mr. Price testified that an employee standing on the earth in the wet area could be shocked in the event of a short circuit.

The operator presented no contrary evidence.

Citation No. 2674143

The Secretary presented evidence that the ground for the 440 volt screen conveyor drive motor was not hooked up. Mr. Price the electrical engineer testified that a ground wire in a three-phase system is typically a fourth wire which is hooked to the frame of the motor and grounds the current back to the incoming transformer. When a ground fault or short circuit occurs there is a large amount of current which instead of going through the motor and producing the desired result goes back to the source transformer. He explained that this is why it is called a short circuit.

Mr. Price observed that the ground wire inside the junction box was not hooked onto the motor frame. Consequently in the event of a short circuit virtually any piece of metal touching either the motor or the conveyor would be energized. However, if

~244

the wire or other conductor is hooked back to the ground at the source transformer then the short circuit current travels on that ground conductor and trips the breaker. The breaker will trip even when there are only a few ohms resistance. If the system is properly grounded a short circuit will shut down the system without causing any hazard.

Respondent presented no contrary evidence.

Citation No. 2674144

The Secretary presented evidence that there was no ground wire or equivalent protection on the 440 volt drive motor for the cedar rapid screen. Mr. Price testified he observed there was no ground wire by simple visual inspection. He then determined that there was no equivalent protection by checking with an OHM meter.

Respondent presented no contrary evidence.

Citation No. 2674145

The Secretary presented evidence that there was no ground on the 440 volt cedar rapid screen rock conveyor drive motor. On opening the junction box at the motor the electrical engineer found there was no ground wire nor any other grounding conductor such as a conduit.

On checking with an OHM meter Mr. Price found that there was no equivalent protection.

Respondent presented no contrary evidence.

Citation No. 2674147

The Secretary presented evidence that there was no ground wire on the two 440 volt drive motors for the cone crusher. On opening the junction boxes of both motors and the compressor Mr. Price found there were no ground wires present. He stated that if there was a short in that area without ground wires the crusher itself and any metal that happen to be touching or attached to it could be become energized creating a shock hazard. With the three-phase system that was present the voltage could be 440 volts or 275 volts depending on where the ground fault is located. Either one of these voltages could be lethal.

Respondent presented no contrary evidence.

Citation No. 2674148

The Secretary presented evidence that the 440 volt drive motor for the bin belt was not properly grounded. The ground

~245

wire was present but it was not continuous. It was an open ground wire and therefore not grounded. Mr. Price testified that if there were a short in the motor both the motor and the equipment that it was mounted on would be energized.

On cross examination the electrical engineer testified that a grounding wire or other device is acceptable only if it "works". He checked with an OHM meter and it showed that there was no continuity.

Respondent presented no contrary evidence.

Citation No. 2674146

The Secretary presented evidence that the 440 volt power cable entering the metal junction box on the side of the rock conveyor for the cedar rapid screen was not equipped with the proper fitting required by 30 C.F.R. 56.12008.

The electrical cable in question is a type of electrical cable that has metal conductors inside and an outer jacket of insulation. The cable entered the junction box through a hole in the side of the junction box. There was no fitting where the wire passed through the metal frame of the junction box. This lack of the proper fitting increases the chance of a short circuit.

Mr. Price testified that a proper fitting has to protect the wire or cable from the sharp edge of the box cutting into it and causing a ground fault and it must also provide strain relief for the many connections inside the junction box.

Respondent presented no contrary evidence.

Citation No. 2674149

This citation alleges a second violation of 56.12008. The Secretary presented evidence that the 440 volt wires entering the junction box on the drive motor for the 3/8 crossbelt were not properly bushed where they entered the metal junction box on the motor. The conduit to the junction box was pulled out and the individual insulation on the individual wires of the conduit were contacting the frame. This individual insulation of each wire is quite thin and is very easily cut by the edge of the junction box if a little weight or pull is put on the conduit. It was quite easy to pull out one of the hot wires from the junction box and cause a short circuit that would energize the equipment.

Respondent presented no contrary evidence.

Discussion and Findings

The operator was charged with seven violations of 30 C.F.R. 56.12025 which requires that all metal enclosing or encasing electrical circuits be grounded or provided with equivalent protection. The primary evidence presented by the Secretary to prove the alleged violations was the testimony of Mr. Price an experienced electrical engineer who accompanied and assisted the MSHA inspector Ronald Burris in the September 24, 1986, inspection of Respondent's electrical system. The testimony of Mr. Price was persuasive and convincing. Based upon his un rebutted testimony, summarized above under the heading "summary of evidence" it is found that respondent was in violation of each of the grounding violation charged in Citation Nos. 2664141, 2674142, 2674143, 2674144, 2674145, 2674147 and 2674148.

In each instance it is found that the metal enclosing or encasing electrical circuit for equipment was not battery operated and was not grounded or provided with equivalent protection. In each instance it is found that there was a violation of the mandatory grounding requirements of 30 C.F.R. 56.12025.

Citations 2674146 and 2674149 charges the operator with two violations of 30 C.F.R. 56.12003 involving insulation and fittings of power wires and cables where they pass into or out of electrical compartments.

Section 56.12003 provides as follows:

Power wires and cables shall be insulated adequately where they pass into or out of electrical compartments. Cables shall enter metal frames of motors, splice boxes, and electrical compartments only through proper fittings. When insulated wires, other than cables, pass through metal frames, the holes shall be substantially bushed with insulated bushings.

The un rebutted testimony of Mr. Price, MSHA's experienced electrical engineer, was persuasive and convincing. On the basis of his testimony summarized above under the heading "Summary of Evidence", it is found that there was a violation of the mandatory safety standard 30 C.F.R. 56.12003 in each of the instances charged in Citation Nos. 2674146 and 2674149.

Accordingly, it is ORDERED that all the citations of the subject case are hereby affirmed.

Penalty

The seven stipulations entered into by the parties (set forth above) are accepted as established facts. And on the basis of these stipulations and the information placed in the record at the hearing it is found that the appropriate penalty for each of the nine violations is the original penalty proposed by the Secretary of Labor.

On the basis of the foregoing findings and conclusions and taking into account the requirements of Section 110(i) of the Act, the following civil penalties are assessed by me for the violations which have been affirmed in this proceedings.

Citation No.	Penalty
2674141	\$112.00
2674142	112.00
2674143	112.00
2674144	112.00
2674145	112.00
2674146	112.00
2674147	112.00
2674148	112.00
2674149	112.00

ORDER

The respondent is ordered to pay the civil penalties in the amount shown totaling \$1,008.00 within 30 days of the date of this decision. Payment is to be made to MSHA and upon receipt of payment these proceedings are dismissed.

August F. Cetti  
Administrative Law Judge