

CCASE:
MSHA V. WHITE PINE COPPER DIVISION
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TTEXT:
FEDERAL MINE SAFETY & HEALTH REVIEW COMMISSION
WASHINGTON, D.C.
February 16, 1982
SECRETARY OF LABOR,
MINE SAFETY AND HEALTH
ADMINISTRATION (MSHA) Docket Nos. LAKE 79-202-M
LAKE 80-24-M

AND

LOCAL 5024, UNITED STEELWORKERS
OF AMERICA,

v.

WHITE PINE COPPER DIVISION,
COPPER RANGE COMPANY

DECISION

This case involves the interpretation of 30 C.F.R. § 57.12-82, a mandatory standard under the Federal Mine Safety and Health Act of 1977, 30 U.S.C. § 801 et seq. (Supp. III 1979). Section 57.12-82 provides:

Powerlines shall be well separated or insulated from waterlines, telephone lines, and air lines.

For the reasons that follow, and for those expressed in our decision in Homestake Mining Co., 4 FMSHRC_____(CENT 79-27-M et al., February 16, 1982), issued today, we reverse the judge and hold that White Pine Copper Division did not violate the standard. 1/

Three citations were issued in this case when an inspector observed power cables, which were suspended from the back (roof), in contact with metal air lines and with a support chain for an air line. The cables involved carry 440 or 480 volts. All have three individually insulated conductors and three grounding wires surrounded

1/ The judge's decision is reported at 3 FMSHRC 481 (1981).

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by a neoprene (synthetic rubber) jacket. They are approved by MSHA under 30 C.F.R. § 18.36 for use as trailing cables on mobile equipment.

The judge held that "powerlines" is not a term of art in electricity and that the "ordinary meaning" of the word includes the entire cable--conductors, insulation and jacketing. He found it

"unlikely that the electrical cables would energize the metal lines".
3 FMSHRC 483. Nevertheless, because in his view the standard refers to the entire cable, the judge concluded that it requires additional insulation between the outer jacket of the cable and water, air or telephone lines.

As we noted in Homestake, the cables involved in these cases contain conductors that transmit electricity, and thus can be considered powerlines; therefore, section 57.12-82 applies to them. That standard must be read in conjunction with 30 C.F.R. § 57.2. 2/ The purpose of these standards is to prevent injury to miners as a result of contact with energized air, water or telephone lines. The Secretary relied on, and the judge accepted, a blanket "rule" that section 57.12-82 requires additional insulation at crossover points without regard for the suitability of the insulation that in fact was present. We rejected this interpretation of the standard in Homestake. Under the standards, the insulation present in the cable must be examined in order to determine whether there has been a violation.

The judge found that the cables at issue here, which carry 440 or 480 volts, "have a maximum voltage rating of between 600 and 2,000 volts and have at least 25,000 volts of dielectric resistance." 3/ 3 FMSHRC 483. Further, undisputed evidence indicates that the neoprene jacket not only resists abrasion and flame (Tr. 215). but also has insulating qualities. Tr. 92, 232. The jacket was developed to withstand mine conditions and, as we noted above, these identical cables were approved by MSHA for use on the mine floor as trailing cables. The Secretary failed to prove that the insulation on the cables at issue was unsuitable or otherwise insufficient; therefore, he did not prove a violation of section 57.12-82.

2/ Section 57.2 defines insulated as follows:

"Insulated" means separated from other conducting surfaces by a dielectric substance permanently offering a high resistance to the passage of current and to disruptive discharge through the substance. When any substance is said to be insulated, it is understood to be insulated in a manner suitable for the conditions to which it is subjected.

Otherwise, it is, within the purpose of this definition, uninsulated. Insulating covering is one means for making the conductor insulated.

3/ The dielectric strength or resistance of a substance is the ability of that substance to resist the passage of electricity through it.

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Accordingly, the decision of the judge is reversed, and the

penalties assessed are vacated.

4/ Chairman Collyer did not participate in the consideration of disposition of this case because of her prior representation of the Climax Molybdenum Company at a time when the Climax cases dealing with identical issues and decided by the Commission today, 4 FMSHRC (DENV 78-553-M et al., Feb. 16, 1982), were being tried and argued on appeal.

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