

May 15, 2009

"The Employer"

The Chief Compliance Officer is writing to acknowledge receipt of the employer's letter dated March 10, 2009 requesting a deviation from Section 34(3) that states:

*34(3) An employer shall ensure that the clearance between the roof of a haulageway and the highest point of mobile equipment is at least three hundred millimetres and that in no case is the clearance less than 1.2 m from the driver's seat.*

The employer indicates in the employer's request the following:

On the employer's 1200m operating level, the employer has a suspended belt conveyor, CU017, which is used to transport ore from the crusher area to the storage silo. This conveyor travels through a graphite zone in two areas, which are susceptible to swelling due to moisture. The first graphite zone is 15' from the silo and the second zone is 60' long 20' apart from the first one. At the present time the clearance between the bottom of the conveyor structure and the top most point of certain equipment required to work in this area does not meet the minimum requirement.

In efforts to correct this situation, the employer has raised the lowest point of the conveyor way, the return idlers, to their highest possible setting. The employer has scraped the roadway to remove all loose, which would contribute to a raise in roadbed elevation. Both these actions were unsuccessful in bringing the employer within requirements.

The employer is unable to dig or otherwise remove any of the solid material comprising the roadbed as it could lead to an upset of the steel set support for the area.

This passage way is used on a daily basis, but is not considered a through fair. Any personnel traveling in this area would be associated with the crushing operation and its maintenance or actual roadbed clean up. The passageway dead ends at the shaft station and does not provide access to other sections of the premises.

The employer has hung signage at both ends of the area in question advising all personnel of the reduced clearance.

The JHSC Co-Chairs have signed and acknowledged the employer's request for deviation.

Based on the information the employer has provided, a deviation is granted provided that the employer undertakes and documents period inspections of the area to ensure that the level of risk remains low.

By copy of this letter, the Chief Compliance Officer has advised WorkSafeNB staff and the JHSC Co-chairs of the decision.

Yours truly,

Chief Compliance Officer