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SOL (MSHA) V. BRADLEY COUNTY HIGHWAY
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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. BARB 79-94-PM
Assessment Control
No. 40-00008-05001

v.

BRADLEY COUNTY HIGHWAY
DEPARTMENT,
RESPONDENT

County Quarry & Mill

DEFAULT DECISION

Appearances: Leo J. McGinn, Esq., Office of the Solicitor,
Department of Labor, for Petitioner
No one appeared at the hearing on behalf of Respondent

Before: Administrative Law Judge Steffey

A hearing in the above-entitled proceeding was convened in Chattanooga, Tennessee, on August 22, 1979, pursuant to a written notice of hearing dated July 2, 1979. The notice of hearing was received by respondent on or about July 5, 1979. Counsel for the Mine Safety and Health Administration entered his appearance at the hearing, but no one appeared at the hearing to represent respondent.

Section 2700.63(a) of the Commission's Rules of Procedure which became effective on July 30, 1979, provides that when a party fails to comply with an order of a judge, an order to show cause shall be directed to the party before the entry of any order of default. An order to show cause was sent to counsel for respondent on August 23, 1979, pursuant to 29 CFR 2700.63(a). A return receipt shows that the show-cause order was received by respondent on August 27, 1979. The order required respondent to show cause, within 15 days after receipt of the order, why it should not be found to be in default for failure to appear at the hearing convened on August 22, 1979. A period of over 20 days has elapsed since the show-cause order was received, but respondent has not submitted a reply to the order. Therefore, I find that the show-cause order has not been satisfied and I find respondent to be in default for failure to appear at the hearing. Section 2700.63(b) of the Commission's Rules of Procedure provides that when a judge finds a respondent to be in default in a civil-penalty proceeding, he shall also enter a summary order assessing the proposed penalties as final, and directing that such penalties be paid.

WHEREFORE, it is ordered:

Within 30 days from the date of this decision, respondent shall pay civil penalties totaling \$320.00 which are allocated to the respective

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MSHA v. Bradley County, Docket No. BARB 79-94-PM (Contd.)

alleged violations as follows:

Citation No. 106802	5/9/78	56.9-87	\$ 90.00
Citation No. 106803	5/9/78	56.9-87	90.00
Citation No. 106804	5/9/78	56.14-6	84.00
Citation No. 106805	5/9/78	56.9-54	56.00
Total Civil Penalties in This Proceeding				\$320.00

Richard C. Steffey
Administrative Law Judge