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SOL (MSHA) V. EARTH COAL
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Federal Mine Safety and Health Review Commission
Office of Administrative Law Judges

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

CIVIL PENALTY PROCEEDING

Docket No. LAKE 83-32
A.C. No. 12-01890-03502

v.

Lengacher Mine No. 1

EARTH COAL COMPANY, INC.,
RESPONDENT

ORDER OF DISMISSAL

Before: Judge Merlin

On April 26, 1983, the operator was ordered to send an Answer to this Commission within 30 days or show good reason for the failure to do so. The order advised that failure to respond would result in default. No response was received despite receipt of the order. On June 28, 1983, an order of default was issued ordering the operator to pay \$763.

On July 27, 1983, the operator filed a request for review of the order of default. By an order dated August 4, 1982, the Commission granted review and remanded the case to me to ascertain and evaluate the operator's reasons for failing to respond to the show cause order dated April 26, 1983. On August 9, 1983, the operator was ordered to furnish information within 45 days sufficient for me to evaluate the reason for its failure to respond to my show cause order. No response to the August 9, 1983 order was received despite receipt of the order. On October 13, 1983, the operator was ordered to furnish the necessary information within 45 days or show good reason for the failure to do so.

The operator has now responded to the order of October 13, 1983. The operator states that the cited mine is no longer operational and the operator does not wish to pursue this matter any further.

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Accordingly, the order of default is reinstated, the operator is ORDERED to pay \$763 within 30 days from the date of this order and this case is hereby DISMISSED.

Paul Merlin
Chief Administrative Law Judge