

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

OFFICE OF ADMINISTRATIVE LAW JUDGES
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AUG 6 1986

GREENWICH COLLIERIES, : CONTEST PROCEEDINGS
DIVISION OF PENNSYLVANIA :
MINES CORPORATION, : Docket No. PENN 86-135-R
Contestant : Order No. 2689830-02; 3/31/86
v. :
SECRETARY OF LABOR, : Docket No. PENN 86-136-R
MINE SAFETY AND HEALTH : Order No. 2689831-02; 3/31/86
ADMINISTRATION (MSHA), :
Respondent : Docket No. PENN 86-137-R
: Order No. 2689832-02; 3/31/86
: Docket No. PENN 86-138-R
: Order No. 2689833-02; 3/31/86
: Docket No. PENN 86-139-R
: Order No. 2689834-02; 3/31/86
: Docket No. PENN 86-140-R
: Order No. 2689835-02; 3/31/86
: Docket No. PENN 86-141-R
: Order No. 2689837-01; 3/31/86
: Docket No. PENN 86-142-R
: Order No. 2689838-01; 3/31/86
: Docket No. PENN 86-143-R
: Order No. 2689839-01; 3/31/86
: Docket No. PENN 86-144-R
: Order No. 2689840-02; 3/31/86
: Docket No. PENN 86-145-R
: Order No. 2689884-01; 3/31/86
: Docket No. PENN 86-146-R
: Order No. 2689885-02; 3/31/86
: Docket No. PENN 86-147-R
: Order No. 2689886-02; 3/31/86

: Docket No. PENN 86-148-R
: Order No. 2689887-02; 3/31/86
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: Docket No. PENN 86-149-R
: Order No. 2689888-02; 3/31/86
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: Docket No. PENN 86-150-R
: Order No. 2689891-01; 3/31/86
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: Docket No. PENN 86-151-R
: Order No. 2689892-01; 3/31/86
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: Docket No. PENN 86-152-R
: Order No. 2689893-01; 3/31/86
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: Docket No. PENN 86-153-R
: Order Mo. 2689894-01; 3/31/86
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: Docket No. PENN 86-154-R
: Order No. 2689895-02; 3/31/86
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: Docket No. PENN 86-155-R
: Order No. 2690021-02; 3/31/86
:
: Greenwich No. 2 Mine

ORDER OF DISMISSAL

Before: Judge Koutras


These proceedings concern Notices of Contests filed by the contestant pursuant to section 105(d) of the Federal Mine Safety and Health Act of 1977, challenging the legality of 21 section 104(d)(2) orders issued by MSHA inspectors for alleged violations of the training requirements found in 30 C.F.R. § 48.6. The orders were issued because of the alleged failure by the contestant to train newly employed experienced miners. The alleged violations were originally issued as section 104(a) citations, but were subsequently modified by MSHA to section 104(d) (2) orders after an MSHA "manager's conference."

The contestant raised several defenses to the issuance of the orders, including claims that they were not issued promptly as required by section 104(d)(2), and that they were not issued as a result of any inspection as required by that section. The cases were scheduled for hearing in Indiana, Pennsylvania, during the term August 5-7, 1986, but the hearings were continued after the parties informed me of a possible settlement of the dispute. As a result of further conferences by the parties,

they informed me that MSHA has agreed to modify each of the orders to a non-S&S section 104(a) citation, with a reduction of the gravity findings to "No Lost Workdays." This agreement was confirmed by letter dated August 1, 1986. In view of the modification of the contested orders, the parties agree that these contests may now be dismissed.

ORDER

In view of the foregoing, the Notices of Contest filed by the contestant in these dockets ARE DISMISSED.


George A. Koutras
Administrative Law Judge

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