

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

1730 K STREET NW, 6TH FLOOR  
WASHINGTON, D.C. 20006

March 6, 1991

SECRETARY OF LABOR,	:	CIVIL PENALTY PROCEEDINGS
MINE SAFETY AND HEALTH	:	
ADMINISTRATION (MSHA),	:	Docket No. SE 90-125
Petitioner	:	A. C. No. 01-00515-03761
	:	
v.	:	Mary Lee No. 1 Mine
	:	
DRUMMOND COMPANY,	:	Docket No. SE 90-127
INCORPORATED,	:	A. C. No. 01-00821-03677
Respondent	:	
	:	Mary Lee No. 2 Mine
	:	
	:	Docket No. SE 90-131
	:	A. C. No. 01-00515-03763
	:	
	:	Mary Lee No. 1 Mine
	:	
	:	Docket No. SE 91-2
	:	A. C. No. 01-00323-03642
	:	
	:	Chetopa Mine
	:	
	:	Docket No. SE 91-3
	:	A. C. No. 01-00821-03681
	:	
	:	Mary Lee No. 2 Mine
	:	
	:	Docket No. SE 91-4
	:	A. C. No. 01-00515-03768
	:	
	:	Docket No. SE 91-15
	:	A. C. No. 01-00515-03770
	:	
	:	Docket No. SE 91-20
	:	A. C. No. 01-00515-03772
	:	
	:	Mary Lee No. 1 Mine
	:	
	:	Docket No. SE 91-21
	:	A. C. No. 01-00821-03682
	:	
	:	Mary Lee No. 2 Mine
	:	
	:	Docket No. SE 91-29
	:	A. C. No. 01-00515-03775
	:	
	:	Mary Lee No. 1 Mine

**DECISION**

Appearances: Douglas N. White, Esq., and Carl C. Charneski, Esq., Office of the Solicitor, U. S. Department of Labor, Arlington, Virginia; and George D. Palmer, Esq., and William Lawson, Esq., Office of the Solicitor, U. S. Department of Labor, Birmingham, Alabama, for the Petitioner. Thomas C. Means, Esq., and J. Michael Klise, Esq., Crowell and Moring, Washington, D.C.; David M. Smith, Esq., Maynard, Cooper, Frierson and Gale, Birmingham, Alabama; and J. Fred **McDuff**, Esq., Drummond Company, Inc., Birmingham, Alabama, for the Respondent.

Before: Judge Merlin

In accordance with the decision rendered this day in Secretary of Labor v. Drummond Company, Incorporated, Docket No. SE 90-126, it is hereby ORDERED that the operator's motions for remand in these case be GRANTED.

It is further ORDERED that the Secretary recalculate her proposed penalties in these cases without reference to Program Policy Letter No. **P90-III-4**.



Paul Merlin  
Chief Administrative Law Judge

Distribution:

William Lawson, Esq., Office of the Solicitor, U. S. Department of Labor, 2015 Second Avenue North, Suite 201, Birmingham, AL 35203 (Certified Mail)

Douglas N. White, Esq., Counsel, Trial Litigation, **Office** of the Solicitor, U. s. Department of Labor, Room 414, 4015 Wilson Boulevard, Arlington, VA 22203 (Certified Mail)

Carl C. Charneski, Esq., Acting **Counsel**, Appellate Litigation, Office of the Solicitor, U. S. Department of Labor, 4015 Wilson Boulevard, Arlington, VA 22203 (certified Mail)

Thomas C. Means Esq., J. Michael Klise, Esq., **Crowell & Moring**, 1001 Pennsylvania Avenue, NW., Washington, DC 20004-2505 (Certified Mail)

David M. Smith, Esq., Maynard, Cooper, Frierson & Gale, P.C.,  
1901 Sixth Avenue North, 2400 **AmSouth/Harbert** Plaza, Birmingham,  
AL 35203-2602 (Certified Mail)

**J. Fred McDuff**, Esq., **Drummond** Company, Inc., Post Office Box  
10246, Birmingham, AL 35202 (Certified Mail)

Ms. Joyce Hanula, Legal Assistant, UMWA, 900 15th Street, NW.,  
Washington, DC 20005 (Certified Mail)

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