

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

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

JUN 23 1992

SECRETARY OF LABOR, : CIVIL PENALTY PROCEEDING
MINE SAFETY AND HEALTH :
ADMINISTRATION (MSHA), : Docket No. WEST 91-444-M
Petitioner : A. C. No. 45-03180-05505
: :
v. : Black River Quarry
STONEWAY CONCRETE, :
Respondent :

ORDER OF DISMISSAL

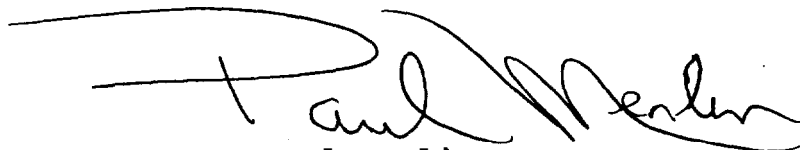
Before: Judge Merlin

On May 22, 1991, the operator's request for a hearing was received by this Commission for docketing.

On November 13, 1991, my law clerk telephoned the Seattle Solicitor reminding him to file the penalty petition which he promised to do, but did not. On March 6, 1992, the Commission's Docket Office again telephoned the Solicitor but he did nothing. Finally, on April 9, 1992, an order was issued directing the Solicitor to show cause why this case should not be dismissed for failure to file a penalty proposal. The file contains the return receipt card showing that the Solicitor received a copy of this order on April 14, 1992. The Solicitor has failed to respond. This case is now over a year old and the Commission has heard nothing from the Solicitor.

The Seattle Solicitor in this case routinely fails to respond to show cause orders, orders to submit information and other orders issued by the Chief Administrative Law Judge. It has been necessary to repeatedly remind him of orders which require him to take action. But even these reminders are of no effect. As I have stated on prior occasions, the Office of the Chief Administrative Law Judge is simply too busy to keep calling and writing this Seattle Solicitor. In his constant and continual disregard of duly issued orders, this Solicitor stands alone. His persistent dereliction of duty cannot be countenanced.

In light of the foregoing, it is ORDERED that this case be DISMISSED.



Paul Merlin
Chief Administrative Law Judge

Distribution:

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