

CCASE:
MSHA V. L & L ENERGY OF HURLEY
DDATE:
19921218
TTEXT:

~2075

SECRETARY OF LABOR,)	CIVIL PENALTY PROCEEDING
MINE SAFETY AND HEALTH)	
ADMINISTRATION (MSHA),)	Master Docket No. 91-1
Petitioner)	Docket No. VA 91-460
v.)	A.C. No. 44-04862-03541D
)	
L & L ENERGY OF HURLEY, INC.,)	Mine No. 2
Respondent)	

ORDER OF DISMISSAL

Before: Judge Broderick

On December 9, 1992, the Secretary filed a motion to dismiss this proceeding on the grounds that on August 8, 1991, the Respondent L & L Energy of Hurley, Inc. and Corbin Eugene Cline, principal of Respondent entered into plea agreements, agreeing to plead guilty to charges of conspiracy to defraud an agency of the United States in connection with the civil violations charged herein. Respondent contracted with Triangle Research to handle its dust sampling program. Triangle's principal and agent admitted falsifying the samples submitted to MSHA and admitted that on numerous occasions they blew air on the filtered surfaces of manufactured dust samples. Harry White and Ronald Ellis of Triangle have been convicted of defrauding the Government and have received prison sentences. Respondent provided Triangle with signed blank dust data cards which were submitted to MSHA with the samples.

On August 6, 1992, Judge James C. Turk of the Western District of Virginia sentenced L & R Energy to pay a fine of \$30,000 of which \$15,000 was suspended and to 2 years probation. Corbin Eugene Cline was sentenced to pay a fine of \$5,000 and to 2 years probation, and 2 months home confinement. As part of the plea agreement, the Secretary agreed to move to dismiss pending civil penalty proceedings against Respondent for violations of the laws governing the dust sampling program.

I conclude that under the circumstances dismissal of this proceeding effectuates the purposes of the Mine Act.

~2076

Accordingly, this proceeding is DISMISSED.

James A. Broderick
Administrative Law Judge

Distribution:

Douglas White, Esq., Mark R. Malecki, Esq., Office of the
Solicitor, U.S. Department of Labor, 4015 Wilson Boulevard,
Suite 400 Arlington, VA 22203 (Certified Mail)

Ronald L. King, Esq., Robertson, Cecil, King & Pruitt, 237 Main
Street, Drawer 1560, Grundy, VA 24614 (Certified Mail)

Hand delivered to Lead Defense Counsel Committee

/fb