

CCASE:
SOL (MSHA) V. LITTLE ROCK QUARRY
DDATE:
19930115
TTEXT:

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION
1244 SPEER BOULEVARD #280
DENVER, CO 80204-3582
(303) 844-5266/FAX (303) 844-5268

January 15, 1993

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| SECRETARY OF LABOR, | : | CIVIL PENALTY PROCEEDING |
| MINE SAFETY AND HEALTH | : | |
| ADMINISTRATION (MSHA), | : | Docket No. CENT 92-202-M |
| Petitioner | : | A.C. No. 03-01475-05526 |
| | : | |
| | : | Docket No. CENT 92-204-M |
| v. | : | A.C. No. 03-01475-05528 |
| | : | |
| | : | Docket No. CENT 92-205-M |
| LITTLE ROCK QUARRY COMPANY, | : | A.C. No. 03-01475-05529 |
| INCORPORATED, | : | |
| Respondent | : | De Roche Creek Quarry |

DECISION AND ORDER DISMISSING PROCEEDING

Before: Judge Lasher

Petitioner MSHA, by my Order to Show Cause dated December 3, 1992, and subsequent Order of December 11, 1992, was given until December 31, 1992, to show good cause for its failure to comply with the Prehearing Order of September 14, 1992. As I have repeatedly advised and explained to counsel in the Solicitor's Dallas office over the past two years, one of the purposes of this Prehearing Order is to screen cases to determine if they are going to settle before setting them for hearing. Setting cases for hearing requires a great deal of time and work on the part of our limited secretarial staff. Administrative law judges who approach their docket by automatically setting their cases without screening them do so selfishly both as to the secretaries and fellow judges. Our office would not function efficiently if we all did it. This has been explained at length to the Secretary's counsel. 1

The Commission has set some form of time limitations for its judges. Handling cases out of the Dallas office makes it impos-

1 The Secretary is not being required to settle the cases by my Prehearing Order. It is required, as the party initiating the proceeding before the Commission, to initiate discussion and communication with the Respondent to determine if the matter will settle. Normally, a large percentage of cases do settle if the Secretary's Solicitor proceeds responsibly and in good faith.

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sible to comply with such. Over the past two years, I have found it necessary to plead with several of the attorneys--not all--in this office to get some kind of feedback on the status of cases. As I pointed out in the Order to Show Cause:

The situation has matured to the point that it is impossible to process proceedings, in many of which there is not even a minimum level of response. This is necessary for the Commission's work to be done.

In view of the continuing failure of the Petitioner, I conclude that Petitioner has abandoned its prosecution in these three docket and these proceedings are DISMISSED.

Michael A. Lasher, Jr.
Administrative Law Judge

Distribution:

Michael H. Olvera, Esq., Office of the Solicitor, U.S. Department of Labor, 525 Griffin Street, Suite 501, Dallas, TX 75202
(Certified Mail)

Mr. Ike Carter, Jr., President, LITTLE ROCK QUARRY, P.O. Box 548, Benton AR 72015 (Certified Mail)

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Michael H. Olvera, Esq. Office of the Solicitor U.S. Department of Labor
525 Griffin Street #501, Dallas, TX 75202
(Certified Mail)

Mr. Ike Carter, Jr., President LITTLE ROCK QUARRY, Post Office Box 548, Benton, AR 72015 (Certified Mail)