

CCASE:
PONTIKI COAL V. SOL (MSHA)
DDATE:
19940307
TTEXT:

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

OFFICE OF ADMINISTRATIVE LAW JUDGES
2 SKYLINE, 10th FLOOR
5203 LEESBURG PIKE
FALLS CHURCH, VIRGINIA 22041

PONTIKI COAL CORPORATION,	:	CONTEST PROCEEDINGS
Contestant	:	
v.	:	Docket No. KENT 94-441-R
	:	Order No. 4028302
SECRETARY OF LABOR,	:	
MINE SAFETY AND HEALTH	:	Docket No. KENT 94-442-R
ADMINISTRATION (MSHA),	:	Citation No. 4028282
Respondent	:	
	:	Docket No. KENT 94-443-R
	:	Order No. 4028283
	:	
	:	Docket No. KENT 94-444-R
	:	Citation No. 4028284
	:	
	:	Docket No. KENT 94-445-R
	:	Order No. 4028285
	:	
	:	Pontiki No. 2
	:	
	:	MINE ID 15-09571

DECISION

Appearances: Timothy M. Biddle, Esq., Crowell and Moring,
Washington, D.C. and Susan E. Chetlin, Esq.,
Pontiki Coal Corporation, Lexington, Kentucky, for
Contestant;
W. F. Taylor, Esq. and Brian W. Dougherty, Esq.,
Office of the Solicitor, U.S. Department of Labor,
Nashville, Tennessee, for Respondent;
Lloyd McCoy, Pontiki No. 2 Mine, Lovely, Kentucky,
Representative of Miners, for Intervenors.

Before: Judge Hodgdon

These cases are before me on notices of contest filed by
Pontiki Coal Corporation against the Secretary of Labor pursuant
to Section 105 of the Federal Mine Safety and Health Act of 1977,
30 U.S.C. 815. The notices of contest request modification of
an order issued pursuant to Section 103(k) of the Act, 30 U.S.C.
813(k), and challenge two citations and two orders issue
pursuant to Sections 104(a) and (b), respectively, of the Act,
30 U.S.C. 814(a) and (b). For the reasons set forth below,
the cases are dismissed.

An expedited hearing of the cases was held on March 8, 1994, in Prestonsburg, Kentucky. At the hearing, counsel for the Secretary moved to dismiss Citations No. 4028282 and 4028284 and Orders No. 4028283 and 4028285 and counsel for the Contestant moved to dismiss its contest of Order No. 4028302 (Tr. 8).

ORDER

Accordingly, good cause having been shown (Tr. 4 - 8), it is ORDERED that these cases and their respective citations, orders and requests for modification are DISMISSED.

T. Todd Hodgdon
Administrative Law Judge

Distribution:

Timothy M. Biddle, Crowell & Moring, 1001 Pennsylvania Avenue, N.W., Washington, D.C. 20004 (Certified Mail)

Susan E. Chetlin, Senior Attorney, Pontiki Coal Corporation, 2525 Harrodsburg Road, Lexington, KY 40504 (Certified Mail)

W. F. Taylor, Esq., Office of the Solicitor, U.S. Department of Labor, 2002 Richard Jones Road, Suite B-201, Nashville, TN 37215 (Certified Mail)

Brian W. Dougherty, Esq., Office of the Solicitor, U.S. Department of Labor, 2002 Richard Jones Road, Suite B-201, Nashville, TN 37215 (Certified Mail)

Lloyd McCoy, Representative of Miners, Pontiki No. 2 Mine. P.O. Box 387, Lovely, KY 41231 (Certified Mail)

/lbk