

CCASE:
SOL (MSHA) V. L & J ENERGY
DDATE:
19940412
TTEXT:

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION
OFFICE OF ADMINISTRATIVE LAW JUDGES
2 SKYLINE, 10th FLOOR
5203 LEESBURG PIKE
FALLS CHURCH, VIRGINIA 22041

SECRETARY OF LABOR, : CIVIL PENALTY PROCEEDING
MINE SAFETY AND HEALTH :
ADMINISTRATION (MSHA), : Docket No. PENN 93-15
Petitioner : A. C. No. 36-07270-03526
v. :
 : L & J Energy Company
L & J ENERGY COMPANY, INC., :
Respondent :
:

DETERMINATION UPON REMAND

Before: Judge Weisberger

On April 5, 1994, the Commission issued an order directing me as follows: ". . . to determine whether the stipulation in question is complete and correctly represents the agreement of the parties. Upon so doing, the judge may reconsider his decision, if that should be necessary."

It is the assertion of L & J Energy Company, Inc. (L&J) that the stipulation of record (Tr. 2-4, August 24, 1993) does not reflect the parties' agreement, which inter alia, provides that I would utilize the fact testimony from witnesses, other than Wu and Scovazzo, who observed the condition of the highwall. To the best of my recollection, L&J is correct in its assertion. However, there is no need to reconsider my decision, inasmuch as the decision takes cognizance of, and discusses, the testimony of witness other than Scovazzo and Wu, who had observed the highwall.

Avram Weisberger
Administrative Law Judge

Distribution:

Linda M. Henry, Esq., Office of the Solicitor, U.S. Department of Labor, 14480 Gateway Building, 3535 Market Street, Philadelphia, PA 19104 (Certified Mail)

Laurance B. Seaman, Esq., Gates & Seaman, North Front Street, P.O. Box 846, Clearfield, PA 16830 (Certified Mail)

Henry Chajet, Esq., Jackson & Kelly, 2401 Pennsylvania Avenue, N.W., Suite 400, Washington, DC 20037 (Certified Mail)

/efw