FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION
1331 Pennsylvania Avenue, NW, Suite 520N
Washington, DC 20004-1710
Telephone No.: 202-434-9933
Telecopier No.: 202-434-9949

November 13, 2013

OAK GROVE RESOURCES, LLC.,	:	CONTEST PROCEEDING
Contestant	:	
	:	Docket No. SE 2009-261-R
	:	Citation No. 7696616; 01/08/2009
v.	:	
	:	
SECRETARY OF LABOR,	:	Oak Grove Mine
MINE SAFETY AND HEALTH	:	Mine ID 01-00851
Respondent	:	
	:	
SECRETARY OF LABOR,	:	CIVIL PENALTY PROCEEDING
MINE SAFETY AND HEALTH	:	
ADMINISTRATION, (MSHA),	:	Docket No. SE 2009-487
Petitioner	:	A.C. No. 01-00851-180940-01
v.	:	
	:	
OAK GROVE RESOURCES, LLC.,	:	Oak Grove Mine
Respondent	:	

DECISION UPON REMAND

Before: Judge Moran

The Commission, having reversed the undersigned administrative law judge, upon determining that the safeguard issued to Oak Grove Resources, safeguard No. 2604892, was valid, remanded the matter so that the Court "may determine whether the Secretary proved that Oak Grove violated [that safeguard] as alleged in Citation No. 7696616, and conduct such other proceedings as may be appropriate." 2013 WL 4140414, *4. Following that decision and remand, the Court contacted the parties, who advised, via email responses, that they would stand on their original post-hearing submissions and not provide additional briefing.

In its July 25, 2013 decision, the Commission, in finding that the subject safeguard was valid, noted that it "identifie[d] a hazardous condition, i.e. a locomotive pushing two loaded supply cars, and a remedy, i.e., cars on main haulage roads are not to be pushed." Commission Decision at 6. The Commission also referenced its decision in *The American Coal Co*., 34 FMSHRC 1963 (Aug. 2012), wherein it noted that it rejected the argument that a safeguard, beyond describing a hazard, must also "describe the potential risks or harms associated with that

hazardous condition." It reasoned that as "many potential risks can flow from the cited hazardous condition . . . it would be unreasonable to require the inspector to identify each and every one." *Id.* In remanding this matter to the Court, the Commission made clear that "a valid safeguard [is one which] provides an operator with notice of the conditions considered hazardous and the conduct required to comply with the safeguard; [and that] it need not foreshadow the events that may occur if the safeguard is not implemented."

The subject safeguard having been upheld, it must now be determined whether that notice to provide safeguard was violated when MSHA issued Citation No. 7696616 on January 8, 2009. That citation stated: "A fatal accident occurred on May 22, 2008, when a motorman was crushed between a derailed haulage car and the locomotive he had been operating. The haulage car was being pushed on the main haulage road. The victim would not have been exposed to the pinch point between the locomotive and the haulage car if the car was being pulled instead of pushed on the main haul road." Remand at 2, citing OG Ex. 1.

The following findings of fact from the Court's decision[1] are repeated here:

"Miner Lee Graham was killed at Respondent's Oak Grove Mine on May 22, 2008. There is no dispute about the circumstances of his death which may be briefly summarized as follows: On the date of Mr. Graham's death, Oak Grove was in the process of transporting a shearer body to the longwall face via the main haulage road. The shearer body, a machine that operates on the longwall face, weighs 24 tons and at the time of the accident it was being transported on a 'shearer carrier,' which is a haulage carrier designed for the task of hauling the shearer body. Mr. Graham died when he was pinned between a locomotive he was operating and the shearer body.

Oak Grove was attempting to transport the shearer body using two tandem locomotives: Motors No. 3 and No. 8, to pull the shearer carrier and Motors No. 4 and 9 to push the shearer carrier. Therefore in terms of their destination to the longwall, Motors No. 3 and 8, since they were pulling, were leading and Motors No. 4 and 9 were following the procession. Each pair of locomotives was connected to one another by a coupling. For the two coupled motors pulling the shearer body, No. 8 was in the lead, and connected to No. 3. The No. 3 itself was connected to the shearer body by a one inch diameter, flexible, wire rope. Thus, unlike the relatively rigid connection between the motors, through a coupling, the connection for the pulling locomotives, utilizing a wire rope to the shearer carrier was anything but rigid. Miner Graham was operating the No. 3 motor. In contrast to the wire rope arrangement connecting the pulling motors to the shearer carrier, the pushing motors were connected to the shearer carrier by a solid drawbar.

---

[1] The recap of the Court's original decision is selective but it is not done with any intent to mischaracterize its findings. Instead, with the Commission having set forth the standard for evaluating safeguards, there is no point in repeating what have become irrelevant points from that original decision.

To recap, if one were standing alongside the transporting effort at the time, such individual would have observed, beginning at the front, pulling end, the No. 8 motor, which was connected to the No. 3 motor via a coupling and then the No. 3 motor connected to the shearer carrier by the wire rope. Next would be the shearer carrier itself and on the pushing end, a connection from it, by means of a solid drawbar, to the No. 4 motor. Finally, the No. 9 motor was connected to the No. 4 motor via a coupling in the same fashion as the link between the No. 3 and the No. 8. The significance of the wire rope connection will become apparent momentarily.

To understand how the fatality occurred, picture the procession moving towards its destination, as described, and reaching an upgrade. Slack then developed in the wire rope connection and the consequence was a derailment of the shearer carrier. Examining the situation, the victim unwittingly placed himself in a dangerous position, standing in the middle of the track, between his locomotive and the derailed shearer carrier. It was then that the coupled motors, Nos. 3 and 8 either slid or rolled downhill with Mr. Graham becoming fatally pinned between those motors and the shearer carrier. 33 FMSHRC 846 at * 847.

An MSHA investigation ensued. This investigation was conducted by Inspector David Allen. Upon the conclusion of his investigation, Inspector Allen issued Citation No. 7696616, pursuant to Section 314(b) of the Mine Act for an alleged violation of Safeguard No. 2604892. In his testimony at the hearing, Mr. Allen spoke to the hazards arising from pushing cars on haulage roads. The hazards, he expressed, are plain. When one pushes a car visibility is affected because the load is in front of the pushing force. This makes it more difficult to see the track and any traffic that may lie ahead. Beyond that concern, when pushing, as opposed to pulling, one does not have positive control. Third, pushing also creates a pinch point, as happened here between the shearer carrier and the No. 3 motor. *Id*. at *848. . . .

Allen agreed that once the shearer carrier derailed, the miners evaluated the problem. This took anywhere between two to five minutes and during that time the motors on either side of the shearer carrier did not move. At some point after that time elapsed Mr. Graham, the victim, stepped in between the shearer body and the No. 3 motor and it was then that the motor moved, resulting in Mr. Graham becoming fatally pinned between that motor and the shearer body. Tr. 56-57.

Allen, who had prior mining experience moving mining equipment, stated that, when in his past work at mines, he had performed such tasks, the equipment was pulled through the mine. The pulling was accomplished by using a solid bar, that is a tongue or a drawbar between the locomotive and the car itself. Yet, he conceded, even when moving by pulling, derailments would occur. Tr. 28-29. *Id.* . . . Allen . . . described . . . that cars on main haulage roads are not to be pushed. Tr. 42. . . . Allen then . . . identif[ied] 'several hazards associated with [the safeguard].' These included visibility hazards, the lack of 'good positive control of the loads' by pushing instead of pulling, and creating a 'pinch point.'" Tr. 42-44. *Id.* at *851. . . .

Determination of Violation.

The underlying safeguard, No. 2604892,[2] as noted above, stated that a locomotive was being used to push loaded supply cars down a graded haulage supply mine track entry and it required that "cars on main haulage roads not be pushed except where necessary to push cars from side tracks located near the working section to the producing entries and rooms." Remand at 3, citing OG Ex. 2. Here, the Respondent was pushing a shearer carrier, which carrier was transporting the shearer body to the longwall face, along a main haulage road. Chad Johnson, the mine's assistant general mine foreman/dayshift foreman, admitted this. Tr. 99.

Clearly, Safeguard No. 2604892 was violated here, as alleged in Citation No. 7696616, as it is undisputed that a haulage car was being pushed on a main haulage road. The one exception allowed in the safeguard, allowing cars to be pushed where necessary to move them from side tracks near a working section to the producing entries and rooms, did not apply.

The Parties' Contentions regarding the appropriate penalty.

The Secretary, observing that a fatality occurred here, notes that the issuing Inspector evaluated the violation as significant and substantial ("S&S") and of moderate negligence. For its S&S analysis, the Secretary notes that Inspector Allen identified several hazards associated with the practice of pushing the car here. There was a visibility hazard, as it is harder to see the track and traffic ahead when the load is in front of the direction of travel. A separate hazard is not being able to maintain positive control. Further, the practice of pushing created a pinch-point between the shearer carrier and motor number 3. Had the pulling requirement been adhered to, per the safeguard's instruction, there would not have been a pinch point. The pinch point hazard resulted in the fatality here. These facts, the Secretary submits, establishes that the violation was significant and substantial.

The Secretary also contends that the negligence was moderate. Moderate negligence, it notes, is negligence where the mine operator knew or should have known of the violative condition or practice but there are mitigating circumstances. Inspector Allen considered the negligence on Oak Grove's part to be moderate on the basis that it had not been cited for this safeguard violation in the recent past. Tr. 50.

---

[2] The safeguard in question, which was issued on March 3, 1986 provided in full: "The No. 902 battery powered locomotive was being used to push two loaded supply cars consisting of a car of timber and a car of roof bolts down the graded haulage supply mine track entry of the main south area of the mine, near the intersection of the No. 7 and No. 14 section switch and the No. 10 and the No. 5 section switch. Such area is approximately 2100 feet from the main bottom area of the mine and approximately 3600 feet from the No. 7 section and the No 10 sections. Respectively, this notice to provide safeguard requires that cars on main haulage roads not be pushed except where necessary to push cars from side tracks located near the working section to the producing entries and rooms."

Considering the above, the Secretary maintains that its proposed assessment of $55,000. is the appropriate penalty. Sec. Br. at 10.

Oak Grove maintains that the safeguard did not apply to the cited condition. It contrasts mandatory standards with safeguards and asserts that they must be construed in a "more restrained [manner] than that accorded promulgated standards." R's Br. at 11. By "restrained," Respondent means safeguards must be "construed strictly." *Id.* Respondent contends that applying its wished-for construction of safeguard notices here compels the conclusion that this safeguard does not apply to "pushing heavy equipment." R's Br. at 17. Respondent asserts that the safeguard *only applies to cars laden with timbers or roof bolts*. *Id.* Seriously. The Respondent actually makes this claim. Adding to its view of what it means to "construe[] strictly" the safeguard notice, Respondent argues that it does not apply to the moving of heavy equipment. Heavy equipment is not moved by supply cars. Rather, heavy equipment is moved by "specially designed carriers." Yet another distinction perceived by Respondent is that supplies are moved by a single motor, not four, as here.[3]

From its contention that the safeguard "does not contemplate or apply to the pushing of heavy equipment," Respondent then turns to the S&S designation. It asserts that "[t]he Secretary is arguing essentially that the alleged condition contributed to the accident." It counters that "[t]he occurrence of an accident does not, in fact, confirm that a condition is reasonably likely to result in an injury." R's Br. at 19. To support that thesis, the Respondent declares that "[t]he accident occurred because one of the persons present did not set the brakes on the motor." Respondent describes the Secretary's view, that the absence of a drawbar contributed to the accident, as a "theory" and one that is "tenuous at best." *Id.* After all, it points out, the safeguard doesn't require a drawbar and it makes no mention of pinch points either. Respondent concludes that as the hazard addressed by the safeguard was not one that resulted in the accident, an S&S designation does not apply. *Id*. at 20. Looking to the third element of the *Mathies* "significant and substantial" criteria, Respondent states that the "failure to comply with the safeguard did not result in a hazard related to the accident." *Id.* It adds that the safeguard's failure to identify the hazard is a deficiency that is fatal to the S&S designation. Because the accident "had no relation to the safeguard," as no pushing or pulling was occurring at the time of

[3] Respondent *perceives* subsequently issued safeguards, *though no subsequently issued safeguard notice exists*. Instead, it looks to the waiver that was, for a time, issued to Oak Grove and construes that waiver as "in effect" a safeguard for heavy equipment, which *perceived* safeguard was then revoked. Respondent construes the waiver and its subsequent revocation as evidence that the "original" safeguard did not pertain to heavy equipment. Respondent then asserts that, although waivers don't "appear to be an authorized procedure," that history still shows that the original safeguard did not apply to the pushing of heavy equipment.

the accident, the violation could not have contributed to the hazard.[4]

---

[4] Oak Grove cites *Mar-Land Industrial Contractor, Inc.*, 14 FMSHRC 754, (May 1992), for the position that the occurrence of an accident does not confirm that a condition is reasonably likely to result in an injury. The problem with this argument is that it is a straw man. Of course the occurrence of an accident does not by itself confirm that a condition was reasonably likely to result in an injury. But, when an accident occurs, and such accident *is* connected to the cited condition, one then moves beyond the realm of reasonable likelihood. Instead, there is real world evidence of the occurrence and its connection. There is no need, when the accident in fact occurs, to get into the business of predicting the likelihood of its occurrence. To say the least, it would be a perverse outcome to claim that the case for establishing that a violation was S&S is stronger when the prediction is that it is reasonably likely to occur, but not as strong when it happens. Ironically, though cited, *Mar-Land* did not contest the S&S finding by the judge and *the issue was not before the Commission.*

In its lead citation for the principle that the occurrence of an accident does not confirm that a condition is reasonably likely to result in an injury, Oak Grove cites *Plateau Mining*, 25 FMSHRC 738, 745. There, the judge did state that the cause of certain tragic events related to the question of whether the standard was violated, while adding that establishing the cause does not necessarily establish the violation. The judge ultimately found that the violation was established and that it was S&S. In the Court's view, this is an odd case to rely upon. It is, at best, dicta, in the judge's decision itself and being an administrative law judge decision, not of precedential value in any event. Oak Grove notes that the Commission subsequently affirmed and reversed that decision in part. 28 FMSHRC 501 (Aug. 2006). The Commission's split decision for the citation associated with Oak Grove's contention, citation number 7143395, that an accident's occurrence does not confirm that a condition is reasonably likely to result in an injury, affirmed the judge's determination that there was a violation. This occurred in the context of the case having been remanded to the Commission by the Tenth Circuit. 519 F. 3d 1176 (10th Cir. 2008). The Westlaw site, at 2006 WL 2524065, must reflect a publication error, as its printing of the Commission's August 22, 2006 decision, includes a reference to *the 2008 decision by the 10th Circuit*, Thus, the Westlaw 2006 publication includes the 10th Circuit's decision, which came two years later. Indirectly, this was sorted out, as reflected in the Commission's July 15, 2008 Order, found at 2008 WL 3248033, which Order vacated citation number 7143395. Westlaw will be contacted regarding this error.

Respondent also cites *RS & W Coal Co.*, 25 FMSHRC 589, (ALJ Weisberger Oct. 2003), as the only case "involving both a similar safeguard and a similar set of facts" to Oak Grove's. R's Br. at 20. Oak Grove comments that *RS & W Coal* "d[id] not even address the same hazard from pushing cars as the inspector did [in this Oak Grove case], [that is] pinch points." Oak Grove adds that visibility was not an issue in its case, because the equipment was fully stopped. It concludes that as the hazard addressed by the safeguard is not one that resulted in the accident, it is not within the definition of S&S. *Id.* It is the Respondent's contention that as the "[f]ailure to comply with the safeguard did not result in a hazard related to the accident," and as their was

The Secretary's Brief asserts that, as MSHA Inspector Allen testified that the Respondent was pushing a shearer carrier along a main haulage road and as Mr. Chad Johnson, the mine's assistant general foreman and day shift foreman, admitted to this as well, this establishes a violation of the safeguard. In light of the Commission's Decision in this matter and its decision in *The American Coal Co.* case, 34 FMSHRC 1963, (Aug. 2012), the latter of which was issued *after* the Court's original decision in this matter, the Court wholeheartedly agrees. Sec. Br. at 7, Tr. 42, 99.

Addressing the penalty criteria, the Secretary reminds that a fatality occurred in connection with this activity of pushing a car on a main haulage road and that the Inspector marked the violation as "significant and substantial" and that moderate negligence was attendant. Speaking to the "S&S" designation, the Secretary observes that designation is supported when, "based upon the particular facts surrounding the violation, there exists a reasonable likelihood that the hazard contributed to will result in an injury or illness of a reasonably serious nature." Sec. Br. at 8, citing *Cement Division, National Gypsum Co.*, 3 FMSHRC 822, 825 (April 1981).

In the course of his testimony, Inspector Allen identified both visibility problems and an inability to maintain positive control, as hazards associated with pushing cars. He added that the prohibited pushing method created a pinch-point between the number 3 motor and the shearer carrier, a hazard that is avoided by pulling cars. That pinch-point hazard killed Mr. Graham. The Secretary maintains that the foregoing establishes that the violation met the test to be denominated as significant and substantial.

As for the moderate negligence designation, the Secretary notes that means "the operator knew or should have known of the violative condition or practice, but there are mitigating circumstances" and that this includes "actions taken by the operator to prevent or correct hazardous conditions or practices." In this instance, the MSHA Inspector considered the fact that "Oak Grove had not been cited for a violation of this safeguard in the recent past" to justify the moderate negligence label. Sec. Br. at 9. Considering those factors, and the other statutory

---

no contribution to a hazard by noncompliance with the safeguard, the second and third elements of *Mathies* were not met. While the administrative law judge in that case sustained the mine operator's challenge to the citations arising from the safeguards issued and though everyone recognizes that a decision by an administrative law judge has no precedential effect, the inspector who issued the safeguards in Judge Weisberger's case did testify that pushing mine cars, in that instance mine cars transporting miners, was a hazardous practice. That practice, the Inspector asserted, created a derailment, lack of control and limited visibility hazards. *Id.* at *591. A professional engineer echoed the concerns expressed by the Inspector. The judge in that case took a different view from the MSHA witnesses, concluding that the safeguards' issuance was made outside of the sound exercise of the Secretary's discretion. The case was not appealed. Subsequent Commission decisions have overtaken any lessons that might have been gleaned from the *RS & W Coal Co.* decision.

penalty criteria, the Secretary submits that the proposed $55,000 penalty is appropriate.

In its Reply Brief, Oak Grove spends its entire time on its view of the distinction between "specifying the hazard" and "descri[bing] [] the conditions for issuing a safeguard," [5] and its view that both are required for a safeguard to be valid. However the Commission's Decision and remand in this matter, as well as its holding in *The American Coal Co.* case, 34 FMSHRC 1963 (Aug. 2012), put those arguments to rest.[6] On the same basis, no further comments are required for the Secretary's Reply Brief.

Discussion

As indicated earlier, in finding that the violation was established, the Court agrees with the Secretary that Oak Grove's "extremely narrow reading of the safeguard would render it meaningless." In this regard, the Secretary correctly observes that by Oak Grove's view, the cars would need to be "the exact same and the supplies would have to be essentially the same as well." Sec. Reply at 2. Rejecting Oak Grove's view, the violation, as noted, is affirmed.

The significant and substantial or "S&S" designation and the penalty criterion of negligence are next discussed. The significant and substantial designation is described in section 104(d)(1) of the Mine Act as a violation "of such nature as could significantly and substantially contribute to the cause and effect of a coal or other mine safety or health hazard." 30 U.S.C. § 814(d)(1). A violation is properly designated S&S, "if, based upon the particular facts surrounding that violation, there exists a reasonable likelihood that the hazard contributed to will result in an injury or illness of a reasonably serious nature." *Cement Div., Nat'l Gypsum Co.*, 3 FMSHRC 822, 825 (Apr. 1981). In *Mathies Coal Co.*, 6 FMSHRC 1 (Jan. 1984), the Commission explained in order to establish that a violation of a mandatory safety standard is significant and substantial under National Gypsum the Secretary of Labor must prove: (1) the underlying violation of a mandatory safety standard; (2) a discrete safety hazard -- that is, a measure of danger to safety -- contributed to by the violation; (3) a reasonable likelihood that the hazard contributed to will result in an injury; and (4) a reasonable likelihood that the injury in question will be of a reasonably serious nature. Accord, *Buck Creek Coal, Inc. v. MSHA*, 52 F.3d 133, 135 (7th Cir. 1995); *Austin Power, Inc. v. Sec'y of Labor*, 861 F.2d 99, 103 (5th Cir. 1988) (approving Mathies criteria). In *U.S. Steel Mining Co., Inc*., 7 FMSHRC 1125 (August 1985), the Commission explained that the third element of the Mathies formula "requires that the

---

[5] Following this perspective, Respondent goes on with its view that the safeguard notice must identify whether its concern is directed at pinch points or visibility hazards, or at least to list each and every concern the inspector had about the unsafe practice, to be valid.

[6] In its Reply Brief, the Secretary, concerned that the key point not be lost, reminds of the very basic fact that the safeguard in issue, issued in 1986, addressed the hazardous practice of pushing cars on main haulage roads. Sec. Reply at 2.

Secretary establish a reasonable likelihood that the hazard contributed to will result in an event in which there is an injury." *U.S. Steel Mining Co., Inc*., 6 FMSHRC 1834, 1836 (Aug. 1984). It noted that it is the contribution of a violation to the cause and effect of a hazard that must be significant and substantial. *U.S. Steel Mining Co., Inc*., 6 FMSHRC 1866, 1868 (Aug. 1984); *U.S. Steel Mining Co., Inc.*, 6 FMSHRC 1573, 1574-75 (July 1984). Further, the question of whether any particular violation is S&S must be based on the particular facts surrounding the violation. *Texasgulf, Inc*., 10 FMSHRC 498, 501 (April 1988).

Negligence is conduct, either by commission or omission, which falls below a standard of care established under the Mine Act to protect miners against the risks of harm. 30 C.F.R. § 100.3(d). A mine operator is required to take steps necessary to correct or prevent hazardous conditions or practices. Moderate negligence, the negligence alleged here, exists when the operator knew or should have known of the violative condition or practice, but there are mitigating circumstances present. By comparison, low negligence occurs when the operator knew or should have known of the violative condition or practice, and there are *considerable* mitigating circumstances. Finally, no negligence occurs when the operator exercised diligence and could not have known of the violative condition or practice. 2013 WL 4140378, *Secretary v. Newtown Energy, Inc.*, August 7, 2013 (ALJ), *Secretary v. The American Coal Company*, 2013 WL 4648487, (ALJ), July 30, 2013, *Secretary v. Cemex, Inc., Respondent*, 2013 WL 3152294, (ALJ), May 7, 2013.

The Court agrees with the Secretary's S&S analysis. The violation, as noted, has been found. The discrete safety hazard is present too. More accurately, several discrete safety *hazards* were identified in the course of the testimony, to include diminished visibility, the creation of a pinch point and the lack of positive control. Each of these hazards were attendant to the practice of pushing cars. Although the Respondent asserts that the occurrence of an accident does not confirm that a condition is reasonably likely to result in an injury and it describes the Secretary's view that the absence of a drawbar contributed to the accident as a "tenuous" theory, any legitimate S&S analysis must be able to consider what actually occurred. Reasonable prognostication, which is typically part of the S&S evaluation, cannot impair taking into account the reality of the events. Here, Miner Lee Graham was killed and while his death did not occur simultaneously with the moment in time at which the pushing process was taking place, *that hazardous practice* resulted in the derailment and it was in the course of assessing that derailment that the number 3 and 8 motors moved, fatally pinning him.[7] Although the Respondent would prefer that the S&S analysis begin *after* the derailment, when a brake was not set on a motor, that review ignores the closely-connected hazardous pushing practice which precipitated the derailment. The S&S test, after all, requires only that the discrete safety hazard *contribute* to a measure of danger of safety, which contribution certainly happened here by pushing the cars. Therefore, the Court rejects the Respondent's claim that the accident "had no

[7] It is noted that Inspector Allen concluded in his investigation that pushing the shearer carrier contributed to Mr. Graham's death. Gov. Ex. 4.

relation to the safeguard." As for the final *Mathies'* element, a reasonable likelihood that the injury will be of a reasonably serious nature, again the facts answer this inquiry.

Moderate negligence is the correct designation, although a case could be made that high negligence would be supportable. To view the fact that the mine had not been *cited* for this practice in the recent past as a mitigating consideration is a generous take for the Respondent.

The other statutory were duly considered. The Court concludes that a civil penalty of $55,000.00 is fully warranted here.

ORDER

Accordingly, the Court finds that Citation No. 7696616 is upheld, that the violation was significant and substantial and of moderate negligence and Respondent is hereby **ORDERED** to pay the Secretary of Labor $55,000.00 within 30 days of the date of this decision.

/s/ William B. Moran
William B. Moran
Administrative Law Judge

Distribution:

Jennifer D. Booth, Esq., U.S. Department of Labor, Office of the Solicitor, 618 Church Street, Suite 230, Nashville, TN 37219-2456

R. Henry Moore, Esq., Jackson Kelly, PLLC, Three Gateway Center, Suite 1340, 401 Liberty Avenue, Pittsburgh, PA 15222