

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

OFFICE OF ADMINISTRATIVE LAW JUDGES
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March 6, 2017

JONES BROS., INC.,
Contestant,

v.

SECRETARY OF LABOR,
MINE SAFETY AND HEALTH
ADMINISTRATION, (MSHA),
Respondent.

SECRETARY OF LABOR
MINE SAFETY AND HEALTH
ADMINISTRATION, (MSHA),
Petitioner,

v.

JONES BROTHERS INC.,
Respondent.

CONTEST PROCEEDINGS

Docket No. SE 2016-218
Citation No. 8817595; 04/06/2016

Docket No. SE 2016-219
Citation No. 8817596; 04/06/2016

Mine: S.R. 141 Project, DeKalb Co.
Mine ID: 40-03454

CIVIL PENALTY PROCEEDING

Docket No. SE 2016-246
A.C. No. 40-03454-410595

Mine: Jones Brothers Mine

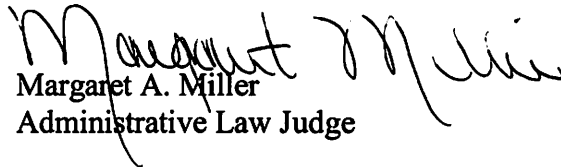
DECISION AND ORDER

Before: Judge Miller

This case is before me upon notices of contest and a petition for assessment of a civil penalty under Section 105(d) of the Federal Mine Safety and Health Act of 1977, 30 U.S.C. § 815(d). These dockets involve nine citations and orders issued pursuant to Sections 104(a) and 104(g)(1) of the Act with originally proposed penalties totaling \$2,940.00. On January 23, 2017, Jones Brothers Inc. filed a motion contesting the jurisdiction of the Mine Safety and Health Administration over its operation. Jones asserts that its operation was a “borrow pit” and therefore not subject to inspection by MSHA. I denied that motion in an order on February 2, 2017, and found that MSHA did have jurisdiction to issue the citations. That order is incorporated here.

In a joint motion to the court on February 22, 2017, the parties indicated that Jones Brothers Inc. wishes to appeal the order on the issue of jurisdiction to the Commission, but does not wish to otherwise contest the citations and orders or the proposed penalties in these dockets. The parties agree that apart from the jurisdiction issue, there are no remaining issues of fact.

I accept the representations of the Secretary as set forth in the penalty petition. I have considered the representations and documentation submitted in this case and conclude that the proposed penalties are appropriate under the criteria set forth in Section 110(i) of the Act. The parties' Joint Motion for Final Decision and Order is **GRANTED** and the citations are affirmed as issued. Respondent is hereby **ORDERED** to pay the Secretary of Labor the sum of \$2,940.00 within 30 days of the date of this decision. Upon receipt of payment, the contest cases are **DISMISSED**.


Margaret A. Miller
Administrative Law Judge

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