FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

OFFICE OF ADMINISTRATIVE LAW JUDGES
1331 PENNSYLVANIA AVE., N.W., SUITE 520N
WASHINGTON, DC 20004-1710
TELEPHONE: 202-434-9958 / FAX: 202-434-9949

August 25, 2015

SECRETARY OF LABOR MINE SAFETY AND HEALTH ADMINISTRATION (MSHA), Petitioner	CIVIL PENALTY PROCEEDING Docket No. WEST 2014-440-M A.C. 24-02070-343369
v.	
JOHN RICHARDS CONSTRUCTION, Respondent	Mine: Richards Pit

SUMMARY DECISION
ORDER DENYING DEPOSITIONS
ORDER DENYING ORAL ARGUMENT

Before: Judge Bulluck

This case is before me upon a Petition for Assessment of Civil Penalty filed by the Secretary of Labor ("Secretary") on behalf of the Mine Safety and Health Administration ("MSHA") against John Richards Construction ("JRC"), pursuant to section 105(d) of the Federal Mine Safety and Health Act of 1977 ("Act"), 30 U.S.C. § 815. The Secretary seeks a civil penalty in the amount of $1,000.00 for one alleged violation of section 103(a) of the Act.

The Secretary filed a Motion for Summary Decision with an accompanying Memorandum of Points and Authorities ("Sec'y Br.") and attached exhibits ("Exs. P-1 through P-4"), and JRC responded with a Reply Brief ("Resp't Br.") opposing the Motion, requesting the court to order depositions of MSHA inspector Peter Crites and his supervisor, Curtis Petty, and requesting an oral argument on the Motion. Both parties subsequently filed Reply Briefs in further support of their respective positions ("Sec'y Reply Br." and "Resp't Br. II"). The following are issues for resolution in this case: (1) whether JRC violated section 103(a) of the Act, and if so, (2) the appropriate penalty.

Commission Rule 56(e) states that "[d]iscovery shall not unduly delay or otherwise impede disposition of the case." 29 C.F.R. § 2700.56(e). Respondent has not presented any evidence that it requested depositions prior to filing its Reply Brief, and this court does not find that they would be appropriate or necessary at this late stage of the proceedings. There is more than sufficient evidence in the record to resolve the matter at issue, and further discovery would prove unduly burdensome to orderly and expeditious disposition of the case. Therefore, JRC's request to take depositions is hereby **DENIED**.

Pursuant to Commission Rule 67(b), "[a] motion for summary decision shall be granted only if the entire record, including the pleadings, depositions, answers to interrogatories, admissions, and affidavits, shows: (1) [t]hat there is no genuine issue as to any material fact; and (2) [t]hat the moving party is entitled to summary decision as a matter of law." 29 C.F.R. § 2700.67(b). When considering a motion for summary decision, the court looks at the record "'in the light most favorable to . . . the party opposing the motion,' and . . . 'the inferences to be drawn from the underlying facts contained in [the] materials [supporting the motion] must be viewed in the light most favorable to the party opposing the motion.'" *Hanson Aggregates New York, Inc.*, 29 FMSHRC 4, 9 (Jan. 2007) (quoting *Poller v. Columbia Broadcasting Sys., Inc.*, 368 U.S. 464, 473 (1962) and *United States v. Diebold, Inc.*, 369 U.S. 654, 655 (1962)).

Based on the facts represented by the parties, I find that there is no genuine issue as to any material fact, and that oral argument is unnecessary to resolve this matter. Therefore, Respondent's Motion for an Oral Argument is hereby **DENIED**. For the reasons set forth below, I conclude that the Secretary is entitled to summary decision as a matter of law on the issue of whether JRC violated the Act. Accordingly, I **AFFIRM** the Citation, as issued, and assess a penalty against Respondent.

I. FACTUAL BACKGROUND

The Richards Pit is a sand and gravel mine in Seeley Lake, Montana, owned and operated by JRC. Ex. P-1 at 2, ¶ 6. John Richards is the owner of JRC. Aff. of John A. Richards ¶ 1. On Friday, July 19, 2013, at 11:40 am, MSHA Inspector Peter Crites arrived at the Richards Pit to conduct a regular inspection. Ex. P-1 at 2, ¶ 7-8. Upon arrival, Crites proceeded to the office building in front of the mine, where he notified JRC office personnel, Cindy Llewellyn and Kim Myre, that he was there to conduct an inspection and asked to speak to Richards. Ex. P-1 at 2, ¶ 8-9; P-2 at 9-10. Llewellyn told Crites that Richards was in Missoula, Montana, on business, and that she could not let Crites enter the mine. Ex. P-1 at 3, ¶ 10; P-2 at 10. Crites asked if there was anyone else on-site that could accompany him on an inspection, and Llewellyn responded that she "thought Kerry the mechanic was out there," but regardless, she could not let the inspector enter. Ex. P-2 at 10.

At this point, Llewellyn called Richards, and Crites went outside to his vehicle to call his supervisor, Curtis Petty. Ex. P-1 at 3, ¶ 11; P-2 at 10. Llewellyn then went out on the porch and let Crites know that Richards was on the phone, and that he had directed her to lock the gate, which she then proceeded to do. Ex. P-1 at 3, ¶ 12, 14; P-2 at 10. Llewellyn later informed him that Richards had also instructed her and Myre to prevent access by parking their vehicles in front of the gate. Ex. P-1 at 3, ¶ 15; P-2 at 11. However, there is no indication in the record of whether Llewellyn and Myre actually moved their vehicles to the gate. Crites spoke with Richards on the phone, and Richards told the inspector that "[he] could not enter the premises without [Richards] being there to accompany him." Resp't Br. at 1; Ex. P-1 at 3, ¶ 13. According to Crites, Richards "repeated this direction to not enter the mine site at least four (4) more times," and JRC has not disputed this claim. Ex. P-1 at 3, ¶ 13.

Crites spoke to Richards again on the phone; Richards informed him that he would be returning some time between 4:00 and 4:30 p.m., and reiterated that Crites should not enter the

property until his arrival. Ex. P-1 at 3, ¶ 16; P-2 at 11; Answer to Pen. Pet. Around noon, Crites observed a male individual enter a vehicle on the inside of the locked gate and drive off the premises, presumably from another entrance. Ex. P-1 at 3, ¶ 17. In a signed statement provided to the Secretary, Myre speculated that this man would have been Mark Smith, an employee who was at the site to pick up a paycheck. Ex. P-2 at 9. Following the instructions of his supervisor, Petty, Crites waited at the mine, issued a citation, left it on the front porch of the office at 4:15 p.m., and drove away at 4:20 p.m.; Richards had not returned to the mine by that time. Ex. P-1 at 4, ¶ 20-22.

II. MATERIAL FACTS

1. There are No Genuine Issues of Material Fact

JRC contends that there are disputed facts in this matter that can only be resolved through an oral argument and hearing. However, looking at the record in the light most favorable to Respondent, I am unable to find any material fact in dispute.

JRC takes the position that the "gate is not on the mine site," but rather that it is adjacent to the Richards Pit, and that Crites would have had "to cross [Richards'] private property not part of the mine" to access the mine. Resp't Br. at 1; Ex. P-2 at 2. Furthermore, JRC states that "[i]t is a disputed fact that [Llewelyn] locked the gate." Resp't Br. at 1. However, Llewellyn, herself, states, "I told [Crites] per [Richards] I was to go lock the gate at which time I did." Ex. P-2 at 10. Myre's statement is nearly identical, explaining that "[Llewelyn] locked the gate per [Richards'] instructions." Ex. P-2 at 9. Moreover, Richards' own notes state that he instructed Llewellyn to lock the gate and block access. Ex. P-2 at 11. JRC has not advanced any evidence to the contrary and, therefore, I find that, upon Richards' orders, Llewelyn did, in fact, lock the gate, which provided access to the mine through adjacent property.

Respondent also alleges that "[t]he inspector did not follow proper procedure." Resp't Br. at 2. However, it is unclear as to what procedure Respondent is referencing. JRC has quoted a series of requirements from MSHA's Program Policy Manual without specifying which one Crites failed to follow or how it would affect the outcome of this case. Resp't Br. at 2. Consequently, I find no genuine factual dispute respecting Crites' conduct in initiating the inspection.

2. Any Facts in Dispute Are Not Material

None of the remaining facts, while disputed, are material to the disposition of this proceeding. JRC disputes Crites' observations of fresh gravel at the mine, arguing that the mine was not in operation, and that no miners were present on the day of the inspection. Resp't Br. at 2. However, the validity of these allegations would have no bearing on the Secretary's right of entry under section 103(a). An authorized agent of the Secretary may conduct regular inspections of a mine irrespective of whether it is operating at the time or miners are present. As the judge found in a similar case involving a denial of entry, "[i]f [the operator] could not find someone to [accompany the inspector], [the operator] was obliged to permit [the inspector] to

conduct his inspection unaccompanied." *F.R. Carroll, Inc.*, 26 FMSHRC 97, 102 (Feb. 2004) (ALJ).

JRC also contends, contrary to Crites' Affidavit, that Crites did not give anyone at the company notice that it would be cited for refusing entry. Resp't Br. at 2. In this regard, Crites has stated that he "explained to [Richards] MSHA's right to entry under the Mine Act and that JRC would be cited for a violation of section 103(a) of the Mine Act if entry was refused." Ex. P-1 at 4, ¶19. Without disputing that Crites explained MSHA's right of entry under the Act, JRC responds that "[a]t no time did Mr. Crites tell JRC or the office staff that they would be sited [*sic*] for a violation of section 103(a) of the Mine Act for refusing entry." Resp't Br. at 2. It is unnecessary, however, to resolve this factual dispute. While it is reasonable to believe that an inspector, upon denial of entry, who engaged in repeated conversations with mine personnel and management over this issue, would have advised an operator of MSHA's rights under section 103(a) and that failure to permit entry would result in a violation, there is no requirement that an inspector threaten an operator or otherwise warn it of an impending citation in order to achieve cooperation and compliance.

Lastly, in the context of contesting the Secretary's proposed penalty assessment of $1,000.00, JRC states that it is a disputed fact whether Richards acted in good faith by returning to the mine as soon as possible. Resp't Br. at 3. Whether Richards' decision to return to the mine late in the afternoon constitutes good faith compliance does not affect the fact of violation, but rather is a criterion considered in setting an appropriate penalty.

III. FACT OF VIOLATION

Crites issued 104(a) Citation No. 8762607, alleging a violation of section 103(a) of the Act that had "no likelihood" of causing an injury resulting in "no lost workdays," and was caused by JRC's "high" negligence. The "Condition or Practice" is described as follows:

> Mr. John Richards, owner of Richard's Pit, John Richards Construction, refused to allow an authorized representative to enter the mine. Mr. Richards stated via telephone that the MSHA inspector could not enter the mine to conduct an inspection without his presence. Two office personnel and a mechanic were present. Cindy Llewellyn, one of these office personnel, was instructed by Mr. Richards via telephone to lock the gate and position two cars in front of it. She proceeded to lock the gate. The mechanic and the two office personnel got in their cars and left the mine site. Prior to leaving, Ms. Llewellyn stated that she would be back and Mr. Richards would be there at 4 o'clock. Cindy was advised that refusal to allow the inspection was a violation of the provisions of Section 103(a) of The Mine Act. John Richards is well aware of this provision of The Mine Act, and has impeded past inspections. This condition has not been designated as "significant and

substantial" because the conduct violated a provision of the Mine Act rather than a mandatory safety or health standard.

Ex. P-1A at 1-2. The citation was terminated on Monday, July 22, 2013, upon Crites' return to the Richards Pit, when Richards permitted him entry for an inspection. Ex. P-1A at 3.

The Secretary argues that JRC directly denied Crites entry to the mine, in violation of section 103(a), when Richards repeatedly told him that he could not enter the mine until he returned. Sec'y Br. at 8. The Secretary also argues that Richards' direction to his employees to lock the entrance gate and park their vehicles to block Crites' access to the mine constituted an indirect denial of entry. Sec'y Br. at 8. Respondent, on the other hand, denies that it interfered with the inspection in a way that frustrated the inspector's legitimate objectives, and defends Richards' behavior on safety grounds. Resp't Br. at 1-2.

IV. DISCUSSION & ANALYSIS

Section 103(a) of the Act, in pertinent part, provides that, for the purpose of making any inspections under the Mine Act, any authorized representative of the Secretary "shall have a right of entry to, upon or through any coal or other mine." 30 U.S.C. § 813(a). It is well-settled Commission precedent that a refusal to permit an inspection is a violation of section 103(a) for which a penalty must be imposed. *Waukesha Lime and Stone Co.*, 3 FMSHRC 1702, 1703 (July 1981).

The issue presented in this matter is whether JRC's verbal refusal to permit Crites' entry until 4:00 to 4:30 that afternoon, when Richards was set to return from Billings, and JRC's subsequent actions of locking the gate, constituted a denial of the Secretary's right of entry in violation of section 103(a) of the Act.[1] I find that it did.

JRC indirectly denied the inspector entry when its employees locked the gate to the mine upon Richards' orders. While this indirect denial would, by itself, justify affirming the Citation, Richards, by his own admission, directly denied Crites access to the mine. In JRC's Reply, the company states that Richards told Crites that "[he] could not enter the premises without [Richards] being there to accompany him." Resp't Br. at 1. Apparently, Respondent does not consider Richards' conduct a denial of entry, advancing two theories as to why there was not "any interference from the mine operator that frustrated the [inspector's] legitimate objectives."

[1] JRC has not asserted that Crites denied anyone the right to accompany him during his inspection pursuant to section 103(f) of the Act and, therefore, the argument need not be addressed in detail. It would be inapplicable here in any event, as section 103(f) only offers "a representative of the operator . . . an *opportunity* to accompany the Secretary or his authorized representative during the . . . inspection." 30 U.S.C. § 813(f) (emphasis added). Crites provided ample opportunity for any available representative of the operator, including the mechanic that Llewellyn thought was on-site, the employee who was picking up a paycheck, or the office personnel, themselves, to accompany him during the approximate four and a half hours that he waited for Richards to return. Llewellyn, instead, informed Crites that he could not enter the mine even if Kerry, the mechanic, were present that day.

Resp't Br. at 2. First, the mine was deserted, non-operational, and "exactly the same when inspected as when Mr. Crites first arrived at the mine." Resp't Br. at 2-3. Second, the gate, itself, "was a chain and bar about knee high" and, therefore, Crites could have "stepped over the chain and entered" if he had wished to exercise his section 103(a) rights. Resp't Br. at 2. Neither argument is persuasive.

As the Commission has explained, "[s]ection 103(a) expressly requires that no advance notice be given an operator prior to an inspection and gives authorized representatives of the Secretary an explicit right of entry to all mines for the purpose of performing inspections authorized by the Act." *Calvin Black Enterprises*, 7 FMSHRC 1151, 1156 (Aug. 1985). The Commission has found unreasonable delay to constitute a section 103(a) violation, at least in the context of an accident investigation. *See U.S. Steel Corp.*, 6 FMSHRC 1423, 1433 (June 1984). Similarly, Commission Administrative Law Judges ("ALJs") have also found section 103(a) violations in cases involving unreasonable delays of inspections. *See, e.g., F.R. Carroll, Inc.*, 26 FMSHRC 97, 102 (Feb. 2004) (ALJ) (finding an operator's request to delay an inspection by five hours unreasonable and a violation of section 103(a)); *Sanger Rock & Sand*, 11 FMSHRC 403, 406-07 (Mar. 1989) (ALJ).

Crites attempted to begin his inspection at or around 11:40 on Friday morning. He was directly denied entry by JRC and told to wait until 4:00 or 4:30 that afternoon. I find that by refusing Crites' entry and demanding that the inspection be delayed until Richards' return, JRC not only interfered with the inspector's right of entry, but also undermined the prohibition against giving operators advance notice of inspections.

While Respondent claims that the conditions of the mine remained unchanged between Friday morning when Crites attempted his inspection, and the following Monday when the inspection finally occurred, the primary purpose of "unannounced inspections proceeding without delay" is to "encourage compliance by preventing mine operators from concealing hazardous violations upon learning that mine inspectors have arrived on the premises." *F.R. Carroll, Inc.*, 26 FMSHRC at 102. Even in a related case where neither the respondent nor any of its employees were present at the mine site on the day of the inspection, and where the ALJ found the operator's request for a delay of the inspection to have been made in good faith, the judge reasoned that "had the inspector agreed to delay the inspection [as per the operator's request] it is possible they could have made efforts to clean up any violations before the inspector arrived on site the following day." *DJB Welding Corp.*, 32 FMSHRC 728, 731 (June 2010) (ALJ). The judge concluded that "exceptions cannot be carved out from a statutory mandate that explicitly states 'no advance notice of an inspection shall be provided to any person.'" *Id.* I agree.

JRC's second argument is, likewise, without merit. While JRC's gate might have been a minor obstacle, in and of itself, the Commission has only required for a section 103(a) violation that entry be refused, not that it be made physically impossible. In *Calvin Black Enterprises*, 7 FMSHRC 1151, 1157 (Aug. 1985), the Commission clarified that operators need not physically prevent inspectors from conducting their inspections in order to violate section 103(a). In that case, there was sufficient evidence of a section 103(a) violation where inspectors were advised that they were trespassing and needed to obtain written permission from the mine's owner before

inspecting the mine. *Id.* As the Commission explained, "MSHA inspectors are not required to force entry or to subject themselves to possible confrontation or physical harm in order to inspect." *Id.* In the instant case, based on his conversations with Richards and Llewelyn, and JRC's subsequent blocking of the gate, Crites would have been justified in thinking that he might have to force entry or subject himself to possible confrontation in order to gain entry.

Having failed to rebut that its actions constituted a denial of entry under section 103(a) of the Act, JRC seeks to defend its conduct by explaining that Richards' presence was required "to insure company policies are followed for the safety of anyone on [his] property." Resp't Br. at 1. The company's apparent argument is that it was necessary for Richards to accompany Crites for his own safety. However, section 103(a) does not contain any such condition or limitation on the Secretary's right of entry. Therefore, Respondent has failed to proffer a valid defense for Richards' actions and, by his direction, that of his employees, and I find that section 103(a) was violated.

The Commission has recognized that "denial of access to an MSHA inspector . . . is an action not to be taken lightly." *Tracey & Partners*, 11 FMSHRC 1457, 1464 (Aug. 1989). In line with this recognition, ALJs have regularly found denial of entry to be serious violations. *See F.R. Carroll, Inc.*, 26 FMSHRC at 103; *Higman Sand & Gravel, Inc.*, 23 FMSHRC 876, 877 (Aug. 2001) (ALJ); *Topper Coal Co., Inc.*, 17 FMSHRC 945, 955 (June 1995) (ALJ), *aff'd*, 20 FMSHRC 344 (Apr. 1998); *John Cullen Rock Crushing & Gravel*, 16 FMSHRC 909, 915 (Apr. 1994) (ALJ); *Sherman Lime and Rock Co.*, 4 FMSHRC 384, 394 (Feb. 1982) (ALJ). Accordingly, I find the gravity of this violation to be very serious.

On the face of the citation, Crites alleges that Richards is well aware of the requirements of section 103(a), and that he has impeded past inspections. Ex. P-1A at 1-2. In Crites' Affidavit, he states that he reviewed MSHA's inspection history of the mine prior to his arrival on July 19, and discovered that Richards "had previously called the local Sherriff on an MSHA inspector for trespassing," and had "taken measure[s] to interfere with inspectors taking photographs of conditions violating the Mine Act." P-1 at 4, ¶ 24. Moreover, in establishing jurisdiction, the Secretary cites to a case that illuminates another instance of obstructive behavior at the Richards Pit. Sec'y Br. at 3 n.1. In that case:

> When [MSHA] Inspector Smith arrived he talked to Mr. Carl Tanner[, an agent of JRC]. When Tanner discovered that Smith was an MSHA employee, Tanner told Smith that he was going to shut the plant down. Tanner walked through the plant to the other side, shut it down, and left with the other employee. As they were leaving, Tanner told Smith that he was not going to participate in the inspection and that he could "[w]rite anything you want - I've seen it all before."

John Richards Construction, 23 FMSHRC 1045, 1046 (Sept. 2001) (ALJ) (citation omitted). This evidence, taken together, suggests an uncooperative attitude and pattern of obstructive behavior on the part of the company, dating back several years, that should not be tolerated.

Furthermore, the Commission has held "that an operator's intentional violation constitutes high negligence for penalty purposes." *Topper Coal Co., Inc.*, 20 FMSHRC 344, 350 (Apr. 1998) (quoting *Consolidation Coal Co.*, 14 FMSHRC 956, 969-70 (June 1992)). JRC has advanced no argument that Richards was unaware of MSHA's right of entry, that the inspector did not inform him of that right, or that Richards had not told his employees to block the gate with their vehicles. Therefore, based on the circumstances surrounding the instant violation and JRC's history of contempt for MSHA's authority to inspect its facility, I conclude that Richards' communications with Crites and his instructions to his staff constituted a deliberate denial of entry. Accordingly, I find JRC highly negligent in violating the Act.

V. PENALTY

The Secretary has specially assessed a proposed penalty of $1,000.00 for this violation pursuant to his Part 100 Regulations, and justifies this assessment by stating that the denial of entry was intentional and a very serious violation of the Act. Sec'y Br. at 11. JRC argues that a special assessment would serve no public good and notes that a regular assessment, under the Secretary's Part 100 Regulations, would be $100.00. Resp't Br. at 3.

Part 100 of the Secretary's Regulations states that "MSHA may elect to waive the regular assessment . . . if it determines that conditions warrant a special assessment." 30 C.F.R. § 100.5(a). The U.S. Court of Appeals for the District of Columbia Circuit has held that "[t]he special assessment ... is designed for particularly serious or egregious violations." *Coal Employment Project v. Dole*, 889 F.2d 1127, 1129-30 (D.C. Cir. 1989). In cases involving denial of entry, there are different levels of egregious conduct, including, at the most extreme end of the spectrum, situations in which mine management has physically assaulted inspectors in order to prevent inspections, resulting in serious injury. *See, e.g., Baker Coal Co.*, 2 FMSHRC 2626, 2627 (Sept. 1980) (ALJ). While the instant matter does not involve behavior that would reasonably be found to be extreme, there is clear evidence that JRC is well-versed on the Secretary's right of entry under section 103(a), and that this behavior is not isolated. JRC's history of obstructive and uncooperative behavior toward MSHA inspectors makes this violation particularly egregious. Therefore, I find that the Secretary was well-justified in proposing a specially assessed penalty.

Notwithstanding the Secretary's authority to propose a specially assessed penalty, the judge must independently determine the appropriate assessment by proper consideration of the six penalty criteria set forth in section 110(i) of the Act, 20 U.S.C. § 820(i). *See Sellersburg Co.*, 5 FMSHRC 287, 291-92 (Mar. 1983), *aff'd* 736 F.2d 1147 (7th Cir. 1984).

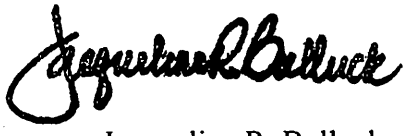
I find that JRC is a small operator with no prior violations of section 103(a) of the Act during the relevant time period and, therefore, an overall violations history that is not an aggravating factor in assessing an appropriate penalty. *See* Ex. P-4 at 2. JRC asserts that the proposed penalty "would be devastating to this small mine's continued operation," but outside of

this bare assertion, Respondent has not proffered any evidence that would support this claim. Resp't Br. at 3. The Commission has held that "[i]n the absence of proof that the imposition of authorized penalties would adversely affect [an operator's] ability to continue in business, it is presumed that no such adverse [e]ffect would occur." *Sellersburg,* 5 FMSHRC at 294 (citing *Buffalo Mining Co.,* 2 IBMA 226, 247-48 (Sept. 1973)); *accord Spurlock Mining Co.,* 16 FMSHRC 697, 700 (Apr. 1994). *See also Steele Branch Mining,* 18 FMSHRC 6, 15 (Jan. 1996). Therefore, I find that the proposed penalty will not affect JRC's ability to continue in business. I also find, given Richards' adherence to his position despite clear warnings from Crites, that JRC failed to demonstrate good faith in achieving rapid compliance after notice of the violation. The remaining criteria involve the gravity of the violation and JRC's negligence in committing it. As has been discussed fully, I find the violation to be very serious, and the result of the operator's high negligence.

It has been established that this serious violation of section 103(a) of the Act had no reasonable likelihood of causing an injury resulting in lost workdays or restricted duty, that JRC was highly negligent, and that it did not demonstrate good faith in achieving rapid compliance. Therefore, I find that the penalty of $1,000.00, as proposed by the Secretary, is appropriate.

ORDER

WHEREFORE, the Secretary's Motion for Summary Decision is **GRANTED**, and it is **ORDERED** that Citation No. 8762607 is **AFFIRMED**, as issued, and that John Richards Construction **PAY** a civil penalty of $1,000.00 within 30 days of the date of this Decision.[2]



Jacqueline R. Bulluck
Administrative Law Judge

Distribution:

Tyler P. McLeod, Esq., U.S. Department of Labor, Office of the Solicitor, 1244 Speer Boulevard, Suite 515, Denver, CO 80204

John Richards, John Richards Construction, 2824 Highway 83 North, P.O. Box 316, Seeley Lake, MT 59868

/rd

[2] Payment should be sent to: Mine Safety and Health Administration, U.S. Department of Labor, Payment Office, P.O. Box 790390, St. Louis, MO 63179-0390.