

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

September 1, 2016

SECRETARY OF LABOR, U.S.
DEPARTMENT OF LABOR, on behalf of
STEVE GLOSSON,

Complainant,

v.

LOPKE QUARRIES, INC.,
Respondent.

TEMPORARY REINSTATEMENT
PROCEEDING

Docket No. SE 2016-299-DM
MSHA Case No. SE-MD-16-09

Mine: Dunn Construction
Mine ID: 01-03411

ORDER VACATING AWARD OF TEMPORARY REINSTATEMENT

This matter is before me upon an Application for Temporary Reinstatement under section 105(c)(2) of the Federal Mine Safety and Health Act of 1977 (“the Mine Act”), 30 U.S.C. § 815(c)(2), and Commission Procedural Rule 45, 29 C.F.R. § 2700.45.

The application was filed with the Commission on August 16, 2016. The Secretary represented that she had served the Respondent via email on the previous day. Relying on his representation, on August 29, I issued an order of temporary reinstatement pursuant to 29 C.F.R. § 2700.45(c). Today, the Solicitor notified the Court that she erroneously failed to serve the Respondent via email as she had so certified. The Respondent did not receive the application by mail until August 22, meaning that today is actually the deadline to request a hearing. The Respondent has now timely requested a hearing.

Accordingly, my August 29, 2016 Order of Temporary Reinstatement in this case is hereby **VACATED**.



Priscilla M. Rae
Administrative Law Judge

Distribution:

Melanie A. Stratton, Esq., Office of the Solicitor, U.S. Department of Labor, 61 Forsyth Street SW, Room 7T10, Atlanta, GA 30303

Steve Glosson, 226 Creel Loop, Brierfield, AL 35035

Mike Lindhorst, General Superintendent, 3430 State Route 434, Apalachin, NY 13732

Adele L. Abrams, Esq., Law Office of Adele L. Abrams, P.C., 4740 Corridor Place, Suite D, Beltsville, MD 20705