

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

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December 24, 2002

SECRETARY OF LABOR,	:	CIVIL PENALTY PROCEEDING
MINE SAFETY AND HEALTH	:	
ADMINISTRATION (MSHA),	:	Docket No. CENT 2002-242-M
Petitioner	:	A.C. No. 41-03882-05515
v.	:	
	:	Mine: Arnold Crushed Stone
ARNOLD CRUSHED STONE,	:	
INCORPORATED,	:	
Respondent	:	

ORDER DENYING MOTION TO REOPEN PENALTY ASSESSMENT

ORDER TO PAY

ORDER OF DISMISSAL

Before: Chief Judge Barbour

On July 18, 2002, I issued an order to Arnold Crushed Stone, Inc. (“Arnold”), to submit more information as to why it failed to timely file a notice of contest in the above captioned case. Arnold was required to file the information within 20 days of the date of that order. When I received no response, on October 24, 2002, I issued an Order to Respondent to Show Cause, in which I required Arnold to either file the required information or show cause for its failure to do so within 20 days of the date of that order. Finally, on December 12, 2002, I issued a Second Order to Respondent to Show Cause, in which I required Arnold to file a response within 15 days of the date of that order. The record includes return receipts indicating Arnold received all three orders.

Subsequently, on December 19, 2002, Arnold faxed three letters to the Commission, which include explanations of why it seeks to contest the citations. However, the letters fail to address the issue of why the company did not timely file a notice of contest despite the fact that all three orders required the company to do so. Therefore, I conclude that Arnold has failed to establish adequate cause to reopen the penalty assessment.

Accordingly, the request to reopen the proposed penalty assessment is **DENIED**, and Arnold is **ORDERED TO PAY** the proposed penalty assessment of \$3,412.00 within 30 days of the date of this order.

This case is **DISMISSED**.

David F. Barbour
Chief Administrative Law Judge

Distribution: (Certified Mail)

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