

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Office of Administrative Law Judges
721 19th Street, Suite 443
Denver, CO 80202-2536
303-844-3577/ FAX 303-844-5268

July 22, 2014

NORTH COUNTY SAND & GRAVEL,
INC.,
Applicant

v.

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

EQUAL ACCESS TO JUSTICE
PROCEEDING

Docket No. EAJ 2014-0001-J
Formerly WEST 2010-365-M

Mine ID 04-05632
Mine: Roadrunner 32

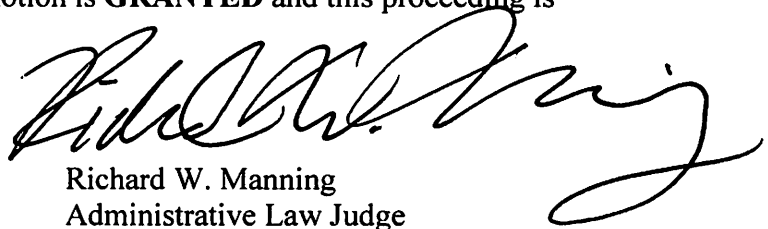
FINAL DECISION
ORDER OF DISMISSAL

This case is before me upon an application for the award of fees and expenses under the Equal Access to Justice Act (“EAJA”) 5 U.S.C. § 504 and the Commission’s regulations at 29 C.F.R § 2704. North County Sand & Gravel, Inc., filed the application against the Department of Labor’s Mine Safety and Health Administration based upon my decision in *North County Sand & Gravel, Inc.*, 35 FMSHRC 3217 (Sep. 2013) (ALJ).

In an Interim Decision dated May 13, 2014, I determined that North County was entitled to an EAJA award under 29 C.F.R § 2704.105(a). 36 FMSHRC 1214 (May 2014). My Interim Decision is incorporated herein by reference. I ordered the parties to attempt to reach an agreement as to the proper amount payable under EAJA in this case.

On June 30, 2014, the parties filed a Joint Stipulation on Reimbursement. Applicant agreed to “accept an EAJA award of \$40,923 for attorney’s fees and litigation-related expenses associated with EAJ 2014-0001-J, formerly WEST 2010-365-M.” (Joint Stipulation). The parties also agreed that payment would be made by the Secretary directly to Applicant’s counsel and that counsel would move for dismissal of its fee application pursuant to 29 C.F.R. § 2704.305 once the fee had been paid.

On July 18, 2014, counsel for Applicant notified this court that the Secretary paid the agreed-upon fees and expenses in this case. On that basis, Applicant moved that this proceeding be dismissed. The Secretary does not oppose the motion. This settlement furthers the objectives of EAJA. For good cause shown, the motion is **GRANTED** and this proceeding is **DISMISSED**.


Richard W. Manning
Administrative Law Judge

Distribution:

Timothy J. Turner, Esq., Office of the Solicitor, U.S. Department of Labor, 1999 Broadway,
Suite 1600, Denver, CO 80202-5708

C. Gregory Ruffennach, Esq., 1629 K Street, N.W. Suite 300, Washington DC 20006-1631

RWM