

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

OFFICE OF ADMINISTRATIVE LAW JUDGES
2 SKYLINE, 10th FLOOR
5203 LEESBURG PIKE
FALLS CHURCH, VIRGINIA 22041

November 25, 1996

DAY BRANCH COAL COMPANY, INC.	:	CONTEST PROCEEDINGS
and BOBBY JOE HENSLEY,	:	
Contestants	:	Docket Nos. KENT 94-1077-R
v.	:	Order No. 3822201; 7/8/94
	:	
SECRETARY OF LABOR,	:	Thru
MINE SAFETY AND HEALTH	:	
ADMINISTRATION (MSHA),	:	Docket Nos. KENT 94-1190-R
Respondent	:	Order No. 4489780; 7/8/94
	:	(See the attached list)
	:	
	:	Mine No. 9
	:	Mine ID 15-16418

ORDER OF DISMISSAL

Before: Judge Maurer

Respondent's renewed motion to dismiss the above-captioned Notices of Contest is granted based on the assertions set forth in the motion.

More specifically, the contestants have failed to contest the penalty proposals in these matters. Proposals for assessment of civil penalties regarding the citations/orders contained in these cases were made to both contestants via two groups of assessments on January 17, 1995, and September 17, 1995. To date, no contests of the proposed assessments have ever been filed.

Accordingly, pursuant to 29 C.F.R. § 2700.27, the Secretary's proposed penalty assessments are deemed to be a final order of the Commission. That being so, it appears that the contest herein of the same citations/orders has been rendered moot. These cases are therefore **DISMISSED**.

Roy J. Maurer
Administrative Law Judge

Distribution:

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DOCKET NUMBER CIT/ORDER

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