

# FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

OFFICE OF ADMINISTRATIVE LAW JUDGES  
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March 15, 1995

SECRETARY OF LABOR,	:	CIVIL PENALTY PROCEEDINGS
MINE SAFETY AND HEALTH	:	
ADMINISTRATION (MSHA),	:	Docket No. LAKE 93-241
Petitioner	:	A. C. No. 12-02033-03596
v.	:	
	:	Buck Creek Mine
BUCK CREEK COAL COMPANY,	:	
INCORPORATED,	:	
Respondent	:	

## DECISION ON REMAND

Before: Judge Hodgdon

On January 20, 1995, the Commission issued a decision in this case reversing my conclusion that Buck Creek's violation of Section 75.360(a), 30 C.F.R. ' 75.360(a), was not "significant and substantial." *Buck Creek Coal Company, Inc.*, 17 FMSHRC 8 (January 1995). The case was remanded to me "for reassessment of a civil penalty consistent with [the Commission's] opinion." *Id.* at 17.

In view of the Commission's determination that this violation was "significant and substantial," I find that it involved a high degree of gravity. Taking into consideration the other criteria set out in Section 110(i) of the Federal Mine Safety and Health Act of 1977, 30 U.S.C. ' 820(i), which are discussed in my prior decision, *Buck Creek Coal Company, Inc.*, 16 FMSHRC 133, 140 (1994), along with the increase in gravity, I conclude that a penalty of \$5,500.00 is appropriate for this violation.

**ORDER**

Accordingly, Buck Creek Coal Company, Inc. is **ORDERED** to pay a civil penalty of \$5,500.00 for its violation of the mandatory safety standards within 30 days of the date of this decision. On receipt of payment, this proceeding is **DISMISSED**.

T. Todd Hodgdon  
Administrative Law Judge

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